THE MANITOBA SCHOOL QUESTION

A SERIES OF FOUR LETTERS

BY

JAMES FISHER, M.P.P.

To the Editor of the Free Press.

Sir,—To one who, like the writer of this letter, has from the very opening of the Manitoba school question, most earnestly contended that the legislature and people of our own province should settle it in a spirit of tolerance and conciliation, giving no justification or excuse for federal intervention, it was comforting to read the recent letters of Principal Grant and the more recent utterances of Mr. Laurier. They inspire a hope that, even yet, the grave problems which the question presents may be solved by the one body that can under any circumstances work out the most satisfactory solution. It is gratifying to find that every word uttered by those distinguished leaders of public thought is in the direction of an earnest appeal for a settlement of the question, within the province, in a spirit such as I have suggested. The great Presbyterian divine has been forced to the conclusion that "the government of Manitoba made a great mistake in summarily abolishing instead of reforming the old school system," a conclusion indeed that is heartily concurred in by thousands in Manitoba, who are thoroughly sincere in their preference for a purely national system of schools, and who regard it as a misfortune that their Roman Catholic brethern cannot be brought to see eye to eye with them on that question. The learned Principal fully realizes that the judgment of the courts finds—and his own investigation confirms it—that the minority have been aggrieved, and that for their grievance a remedy ought to be found, which will neither break up the present system in its general operation, or restore the old one. He deprecates most earnestly any intervention by the federal parliament except as a dernier resort, when every possible means of effecting a settlement amongst ourselves shall have been exhausted. He recognizes that nowhere can the question be so satisfactorily settled as within the walls of our own legislature, and so he pleads with the government of the province that it may deal with the question and solve it. In the most earnest terms he reminds the members of the government that "they have been at war ever since 1890 with the prejudices, the feelings, and even the religious convictions of a section of the population that deserved to be treated with the utmost consideration." He warns them that this war "will end only when they make concessions, which, to the mass of the people interested will seem reasonable;" and he adds that "the sooner these are made the better." That his appeal may be as emphatic as possible he protests that "the onus lies on the provincial government to make concessions to meet the views of reasonable members of the aggrieved minority."

The eloquent words of Mr. Laurier, in his tour through Ontario, are cheering to every one who sincerely desires to see an honorable and statesmanlike settlement of the question. Especially is it gratifying to note the rapturous enthusiasm with which his utterances were received in the great meetings, composed, as we may assume, mainly of English speaking Protestants. Doubtless he was roundly applauded when he pleaded that the Greenway government should be "not only fair but generous to the minority." Who can fail to approve the patriotic words in which, at his Renfrew meeting, he

ndvised "that a way be sought of reaching a mutual understanding between the majority and the minority, between the government at Ottawa and the government of Manitoba?" Who can refuse to follow him, as he declares in the same speech that "It is by a mutual understanding alone that this question can be settled, in a manner which will give to the minority their privileges and their rights, and will not infringe on the rights of the majority?" "This is the way I would do," added Mr. Laurier, "if it were my fortune to be the adviser of Her Majesty in this country."

And how would the Liberal chieftain bring about a condition of affairs that would lead to such a mutual understanding? Just by following in the lines advocated by his own distinguished predecessors in the leadership of Canadian Liberals—Brown, McKenzie and Blake. Hear him at the Renfrew meeting, as he tells his hearers how it could be done. "I choose conciliation as my motto," said he. "We must have peace in this country. We must have harmony. We are above everything Canadians, whatever may be our religious beliefs, whatever be our opinions. . . If we want to build up this nation we can do it only by everyone of us individually making a sacrifice, upon the altar of our common country, of something of our own opinions and prejudices. If the question is approached in this way, I think it is easy of solution, but if it is approached in any other way, I see nothing but strife and discord for the future in this land of ours."

No more true or patriotic words were ever spoken by a statesman in any land, and they should be well weighed by both the minority and majority in this province. Unless wise counsels, such as Mr. Laurier recommends, are to prevail, and that ere long, the divergence between the contending elements will have become so wide as to make a reconciliation impossible. Then, indeed, as the Liberal leader foresees, and earnestly warns us, "there is nothing but strife and discord for the future in this fair land of ours."

At Brockville, on a later day, Mr. Laurier returned to the subject, reiterating the opinion he had already expressed. "We may be separated by creed, but we are all Christians. We acknowledge the law of Christ, and surely there is in the hearts of all of us enough of the Christian character taught by Christ, to allow every one of us to make, for the regulation of this question, a sacrifice, on the altar of his country, of something of his own preferences."

Like Dr. Grant, Mr. Laurier urges that the settlement of the question should be effected by our own legislature. The difficulty in his view of it does not arise so much from any objection on the part of the majority to make concessions that will satisfy the aggrieved minority, but rather from an objection to the federal parliament exercising its authority to legislate on the question, even though its possession of that authority may be altogether undoubted.

When in his Brockville address he openly made the declaration: "I am anxious to see those privileges restored to the Roman Catholic minority in Manitoba," Mr. Laurier said no more of course than we could expect him to say, as from the very first he has not hesitated to express his entire sympathy with his co-religionists here in their hard fought struggle. He went much further, however, and in the most emphatic terms expressed his unlimited confidence that if Ottawa left Manitoba alone, his Protestant hearers would gladly see the claims of the minority conceded. "There is not a man in this audience," exclaimed Mr. Laurier in an outburst of eloquence, "but who would be glad to see the Catholic schools restored by the legislature of Manitoba." This was said at the Merrickville meeting, which, according to the Globe's report was a specially enthusiastic demonstration, where "cheers went up for Mr. Laurier from a thousand throats," and where "there was not a dissentient voice amongst the shouts of approbation with which the Liberal leader's declaration of policy was received." I wish to be permitted, Mr. Editor, to join most heartily in those expressions of approbation.

There is a "but," however, which Mr. Laurier had to interpose before he closed the sentence from which I last quoted. "But", said he, "there is a repugnance to the Canadian parliament overriding the legislature of Manitoba." Ah, that is just where the shoe pinches. Principal Grant and Mr. Laurier have correctly diagnosed the difficulty. We do not like to be told by outsiders that we are in the wrong, much less to have another power actually intervene, even to correct our mistakes. Were Manitoba herself to make the most liberal concessions to the minority, the fact would scarcely elicit a word of unfavorable comment in the other prov-

inces. But the moment the federal arm is raised to attack our legislature, popular sympathy is stirred in favor of the provinces, even amongst the classes whose sympathy, under other circumstances, would be extended to the minority—to the weaker body that complained of a grievance inflicted by the stronger one.

There is no disposition, I believe, on the part of the Protestant majority, throughout the Dominion at large, to refuse concessions that will satisfy all reasonable members of the minority, if the question is once fairly put before them. This fact was well illustrated a good many years ago, when the great Liberal leader of the day—honest and tolerant Alexander Mackenzie—so eloquently pleaded for the restoration to the Catholics of New Brunswick, of the privileges that they had formerly enjoyed. Nay, the privileges that they had before enjoyed were not even theirs by sanction of law, but by the grace of the authorities; and Mr. Mackenzie pleaded that they should not only be restored, but made sure by statutory enactment. And with remarkable unanimity, both sides of parliament applauded Mr. Mackenzie, and voted with him in asking the sovereign and her imperial advisers to intercede with the legislature of New Brunswick on behalf of the aggrieved minority. Mr. Greenway himself was there amongst the rest, and recorded his vote for toleration and conciliation and concession. The voice of the Protestant majority throughout the land stood at that time, too, with Mr. Mackenzie. He spoke in the name and he expressed the sentiments of that Protestant majority, when, in his place in the Commons, referring to the struggle of the New Brunswick Catholics to secure the rights enjoyed by their co-religionists in Ontario, he reminded the house that, though he himself preferred above all others, a public school system free from denominationalism, yet he had by speech and vote supported in the confederation debate, the scheme which perpetuated separate schools for Catholics in Upper Canada and for Protestants in Lower Canada. It was so also when he made the memorable declaration of his desire that the privileges enjoyed by the Catholics of Ontario should be extended to their co-religionists in every province in the union. Mr. Mackenzie's language at that time is so applicable to the position in Manitoba that some of his words may well be reproduced at this time.

"Sir," said Mr. Mackenzie, "the same grounds which led me on that occasion to give loyal assistance to the confederation project, embracing as it did a scheme of having separate schools for Catholics in Ontario and for Protestants in Quebec, caused me to feel bound to give my sympathy, if I could not give my active assistance to those in other provinces, who believed they were labouring under the same difficulties and suffering under the same grievances that the Catholics in Ontario complained of for years."

There is evidence of a strong feeling on the part of the Protestant majority in Ontario against federal legislation establishing separate schools in Manitoba. But this feeling can scarcely be based on any decided objection to a system in itself, which permits Roman Catholics to have schools in Catholic districts, in which the tenets of their own faith are taught, so long as the requirements of the law as to secular education are complied with. That this is so, plainly appears from the general satisfaction given by the system that prevails in Ontario itself. That it is accepted because of its real merits, and not because there are constitutional obstacles in the way of its removal, is also amply testified. It is scarcely necessary to do so, but I may quote just a little testimony on this point. There is for instance, the Toronto Globe's editorial statement in April of this very year. "We advocate the Ontario system," said the Globe at that time, "not because it is fixed by the constitution, but because we consider it to be a good system, embodying a satisfactory settlement of a vexed question. If this province were making a fresh start to-day, absolutely untrammelled by constitutional restrictions, we do not know that it could do better than continue that arrangement without any material change."

There is also the testimony of the Hon. David Mills in 1892, when he said. "The course taken in the province of Ontario, on the whole, produces the most satisfactory results on this continent, of the educational question . . . I say there is no public school system on this continent, producing more satisfactory results, and that works out with less friction than the separate school system of Ontario."

Even in the province of Manitoba, in the hottest of the present agitation, an earnest and eloquent voice was raised in testimony to the satis-

faction given by the Ontario system, and in advocating generous treatment to the minority here. The Rev. Peter Wright, of Portage la Prairie, himself an Ontario teacher in past years, delivered an address on the school question in his own town last April. A full report of it was published in the Tribune, of this city. That paper, than which there is not a more staunch advocate of the present Manitoba law to be found prefaced the report with the remark, "Mr Wright is one of the soundest men in the Presbyterian church in the whole Northwest." And this is what Mr. Wright said: "In Ontario very excellent work is being done in many of the separate schools. The late Mr. Young, when inspector of the high schools of Ontario, was asked by the government to inspect such separate schools as he conveniently could. I remember a conversation I had with him, in which he bore testimony to the excellent condition in which he found many of them." He then went on to make a powerful plea for tolerance and conciliation, urging that we should be fair and generous to the minority, while earnestly protesting at the same time against federal intervention, and insisting that under no circumstances should we submit to a restoration of the old law. Mr. Wright's words are well worth quoting: "Let us make it as easy as possible," said he, "for our representatives to be not only fair and just, but noble and generous. Encourage them to look into the alleged grievance. If it exists let them see about the remedy in a spirit as broad and generous as is compatible with the cardinal principles of our institutions—equal rights and privileges to all." And after a reference to the manner of settlement that some propose—the abolition of all religious exercises from the schools—he proceeds: "Will the Catholics then call our schools godless? Well, let them have the privilege of preparing religious exercises after their own ideas, as distinctly Catholic as they please, so long as the teaching is not subversive of civil obligation—and let these be used in every school where the trustees so determine, in lieu of the present religious exercises, and with the same limitations as to time and attendance."

I am firmly convinced, Mr. Editor, that Mr. Laurier did not overstate the fact when he said the question is "easy of solution," without federal intervention, if approached by both parties to the conflict in the spirit that he recommends. I believe there is no such strong feeling in Manitoba as some people imagine, against making reasonable concessions on the lines suggested by their Lordships of the privy council. Certainly a proposal to restore the old system as it existed prior to 1890 would be met with the most determined opposition. And if the federal parliament were to re-enact that law, I am convinced that an attempt to enforce it would evoke a degree of hostility that would shake the very foundations of our confederation.

It would be a great mistake, however, in my judgment, to assume that there is any such feeling in Manitoba against our own legislature making concessions, such as the Rev. Mr. Wright, for instance, suggested; or against the introduction of a system based on that of Ontario, but modified in some respects so as to avoid some of the weaknesses charged against it.

Upon the question of our own legislature making reasonable concessions, it is particularly interesting to note the opinion of Mr. Joseph Martin, M.P., the ex-attorney general of Manitoba, himself the originator of the present school law.

The Hon. Mr. Ouimet, the French leader in the commons, was reported during last session of the Dominion parliament, in an interview in an Ottawa paper, to have stated that all the Roman Catholics of Manitoba asked was, "to be at liberty to add to the secular education required in the public schools such religious teaching as will meet their religious views." And he added, "If that had been provided for in the legislation of 1890 we would never have heard of the Manitoba school question."

Mr. Martin promptly wrote to the same paper, over his own signature, declaring that if Mr. Ouimet accurately stated the position of the church, then "there is no need of any remedial legislation in order to bring about such a state of affairs." "I believe," added Mr. Martin, "that the people of Manitoba would be willing to give the Roman Catholics all that is asked for. Everybody wishes that a solution of the question may be found without any coercion on the part of the Dominion parliament, and if the demands of the minority are correctly represented by the minister, I am very much at sea in my acquaintance with the views of the Manitoba people, if they will not grant of their own accord all that is asked." This is indeed strong

testimony to the readiness of the Manitoba majority to concede what is, at all events, the main demand of the Roman Catholic minority — that they may be allowed to have religious exercises in public schools according to their own faith. I believe he was quite justified in making the statement. But Mr. Martin did not stop at a declaration that the people of Manitoba were willing voluntarily to concede all that the French leader wanted. He frankly expressed the opinion that justice to the minority demanded that redress should be given. His language in this connection should be carefully read and pondered by every Protestant, and especially by every Liberal, in the province. Let me quote his words: "When I introduced the school bill of 1890," said Mr. Martin in this same letter, "I said, and I still think, that the clause of the 1890 act which provides for certain religious exercises is most unjust to Roman Catholics. If the state is to recognize religion in its school legislation, such a recognition as is acceptable to Protestants only, and in fact only to a majority of Protestants, is to my mind rank tyranny. . . . The nature of the religious exercises should be such as is agreeable to the consciences of those whose money is taken to support the schools."

These are somewhat striking statements, Mr. Editor, from pretty strong men—men whose judgment is entitled to no little weight. Shall I recapitulate some of them?

"The government of Manitoba made a great mistake," and "the onus lies on them to make concessions," said the Rev. Principal Grant.

"I am anxious to see those privileges restored to the Roman Catholic minority in Manitoba," said Mr. Laurier; and at a great gathering in a Protestant district he followed up that avowal by challenging a single man to say that he would not be "glad to see the Catholic schools restored by the legislature of Manitoba." Not a man took up the challenge, but from a thousand throats burst forth applauding cheers.

"I gave loyal assistance in establishing separate schools for Catholics in Ontario and for Protestants in Quebec," and I was "bound to give my sympathy to those in other provinces who believed they were laboring under the grievance that the Catholics of Ontario had complained of for years," said grand old Alexander Mackenzie.

"There is no public school system on the continent producing more satisfactory results than the separate school system of Ontario," said David Mills. And no more sound, thoughtful and safe man than David Mills stands in Canada.

"We advocate the Ontario system because it is a good system, and because it embodies a satisfactory settlement of a vexed question," said the Globe. And I may be pardoned for saying that thousands in every part of Canada, and a vast majority of the people of Manitoba, I doubt not, agree with me in the opinion that the Globe is no mean judge.

"Let Catholics have the privilege of preparing religious exercises after their own ideas, as distinctly Catholic as they please, so long as the teaching is not subversive of civil obligations, and let these be used in every school where the trustees so determine," said the Rev. Peter Wright, B.D. And the Rev. Peter Wright, according to the Tribune—yes, and it needed not the Tribune's testimony to establish it—"is one of the soundest men in the Presbyterian Church in the whole Northwest."

Then Mr. Joseph Martin, most fittingly, came forward to cap the climax, and magnificently and effectively he did it. "Everybody wishes," said he, "that a solution of the question may be found without any coercion on the part of the Dominion parliament." "The clause of the 1890 act which provides for certain religious exercises is most unjust to Catholics." "Such a recognition of religion" in the schools, "as is acceptable to Protestants only, is rank tyranny." These are the well considered views of Mr. Joseph Martin, not uttered in the excitement of debate, or under the inspiration of stump oratory, but calmly and thoughtfully written with his own hand for publication.

What then stands in the way of a settlement of the question? Manifestly, without federal intervention under the appeal of the minority, there is but one way of settling it. That, of course, is by the Manitoba legislature modifying the law. That again depends altogether upon the provincial government. Principal Grant, recognizing this, casts the onus on that government of settling the question. Mr. Laurier, of course, sees it in the same light, and intimates that it is through the provincial government that relief should come. And the question is how can Mr. Greenway and his colleagues be prevailed on to adopt a fair and generous and patriotic policy? Mr. Laurier thinks it depends

on the manner in which these gentlemen are approached. He criticises the government of Sir Mackenzie Bowell because they approached Mr. Greenway with a peremptory demand, instead of a polite request. He is not at all surprised that the provincial government refused to do justice to the minority, seeing a demand was peremptorily made that the law should be changed, accompanied with a threat of federal legislation in the event of refusal. "They passed an order-in-council," said Mr. Laurier, at the Renfrew meeting, "calling upon Manitoba to reverse her legislation, and threatening that if Manitoba failed to do it they would do it themselves." "Do you expect," he added, "that Manitoba was to be induced to reverse her course when she was not approached in a conciliatory manner, but when she was almost threatened at the point of the bayonet to do what she did not want to do? Manitoba's answer was, 'we will not be compelled'" . . "If they had commenced with negotiations instead of threats, perhaps the matter would have been settled now." Again at Merrickville, he said: "He did not think that the government could hope that Mr. Greenway would give way under compulsion, but he might give way under conciliation." And again, at the same meeting, he said: "He believed with all his heart that as soon as the government abandoned the policy of coercion and threat and brng . . . and appealed to the people of Manitoba on the broad grounds of common Christianity, the people of the province would be not only just and fair, but generous to the meeting."

At his Morrisburg meeting Mr. Laurier referred to this feature of the question once more, and announced the manner in which he would have approached the local government if he had been in Sir Mackenzie Bowell's place. "I would approach this man Greenway," said he, "with the sunny ways of patriotism, asking him to be just and to be fair, asking him to be generous to the minority, in order that we may have peace amongst all the creeds and races which it has pleased God to bring upon this corner of our common country. Do you not believe there is more to be gained by appealing to the hearts and souls of men, rather than by trying to compel them to do a thing?"

What Mr. Laurier says may indeed be perfectly true. It is quite possible that the persistent refusal of the provincial government to take a course that is just or fair or generous, to borrow the leader's expressive language, may have arisen from the manner in which they were approached on the subject, rather than from an objection, on principle, to making reasonable concessions. At the same time one can scarcely help feeling that it is somewhat unfortunate to have the settlement of so grave a question, involving possibly the very continuance of the federal union, dependent on a mere question of etiquette.

Mr. Laurier in the name of patriotism, and that we may have peace in this good land, would appeal to Mr. Greenway to be fair and just. The politeness of the Liberal chieftain restrains him from charging, in plain words, that the difficulties threatening the peace of the Dominion arise from the unfairness and injustice of the provincial administration, whose members like myself, are his own political followers. But just as plainly as if he had said it the necessary inference from his language is that Mr. Greenway has failed to be either just or fair on the question, that he has been both unfair and unjust to the minority, and that therefore, he and his colleagues are responsible for the continuance of the present unhappy situation. Mr. Laurier, not being in office cannot speak authoritatively on behalf of the federal powers, but speaking as an outsider—as the leader of the party in opposition—his meaning cannot be misunderstood, and his words plainly condemn the provincial government because they fail to relieve the difficulty by adopting that policy of conciliation, that principal of fairness and generosity for which Principal Grant and the Rev. Peter Wright pleaded. Mr. Laurier is a polished French gentleman who, with great intellectual power and ability, combines the most attractive personality, and the most perfect politeness. His strongest condemnation of his own political friends must be expressed in kindly phrase. Not so, however, with Mr. Joseph Martin, who is always ready to call a spade a spade. He does not hesitate to characterize the law that his political friends uphold, and that owes its very paternity to himself, as most unjust to Roman Catholics, and as being in fact, rank tyranny. These two gentlemen represent two widely different phases of character, but their statements practically lend to the same conclusion—that the

law is unjust and should be amended. After all, people of British origin can scarcely help admiring the manliness of Mr. Martin, though it is said that his language gave great offence to some of his former colleagues and supporters in the provincial government. And we need not the less admire the peace-bringing words of the Liberal chieftain, which are quite natural to him, upon whom appears to have fallen the mantle of the late Sir John Macdonald as a winner of men.

If the solution of this delicate and difficult problem is really to depend on a question of etiquette, and if it be indeed true that the federal government did not approach the provincial authorities in a fair spirit before issuing the formal remedial order, it is to be regretted, perhaps, that we have for a premier a bluff, blunt, John Bull Englishman, who, Englishman like, simply stands upon the constitution, and makes no apology for invoking on behalf of a section of the community, aggrieved by an "unjust" and "tyrannical" law, the provisions of the constitution that have been, by the parliament of Canada, and of the empire, framed for their express protection. Some of us in Winnipeg had occasion to meet Sir Mackenzie Bowell recently, in the discussion of another matter, and much fault was found with him, even by his own political friends, because of his bluntness and plainness of speech. Perhaps it is a misfortune that he is deficient in the use of honied words and courtly phrases, but it is a failing that possibly has its compensations in a public man.

The question remains, however, how the grave difficulty presented by the school question is to be removed. We all desire to avoid federal interference. Peace can be had and justice can be done, through the intervention of the local legislature. How is that to be brought about? Mr. Laurier is not in power, unfortunately, and we cannot avail ourselves, therefore, of his kindly offices, to melt Mr. Greenway, by "appealing to his heart and soul." Mr. Greenway now knows, however, how earnestly Mr. Laurier, if in power, would plead with him for toleration and for justice. Will he not then give the same serious consideration to his leader's declaration as if the latter was actually in office, and will he not try to be, as Mr. Laurier pleads that he ought to be, just and fair and generous? Or must Sir Mackenzie Bowell first make an humble apology to the government of Manitoba, for allowing the Catholic minority to enter the halls of parliament for redress, through the door provided by the constitution, in order that they may there plead their cause before the representatives of the nation? "We must have peace," says Mr. Laurier, and tens of thousands re-echo the sentiment. But who is to take the first step towards conciliation? Upon whom at present is the onus to move in that direction? This question is indeed a serious one, and it ought to receive careful and dispassionate consideration. Principal Grant appears to conclude that the onus is on the provincial government. At the same time he is of the opinion that the remedial order is the great stumbling block in the way. If that be indeed true, it ought to be removed. But let us make sure of our ground and see that the responsibility is put upon the shoulders that ought to bear it.

How far the action of the Dominion government, hitherto, has really been of a high-handed character, and how far the government of Manitoba has just ground of complaint in this regard, and can plead that action as a justification for refusing any consideration of a settlement, can not, of course, be satisfactorily answered without a review of the events that preceded the issue of the order. With your leave I will, in another letter, refer to some of these events.

JAMES FISHER.

To the Editor of the Free Press.

Sir,—In a former letter I ventured to express the opinion that the very strong opposition offered by the majority in Manitoba, and by their sympathisers in other provinces, to the granting of concessions acceptable to the minority, arose more from a repugnance to its being done as a result of federal intervention, than from any decided objection to making such concessions on principle. And I quoted the utterances of Mr. Laurier, Principal Grant, Mr. Joseph Martin and others in support of that view. I quoted especially the opinion of Mr. Laurier, that the federal government, because it issued the remedial order without first approaching the government of the province, in a conciliatory spirit, with "the sunny ways of patriotism," and with "an appeal to the hearts and souls" of the Manitoba ministers, were mainly responsible for the question being still unsettled.

It cannot, I think, be denied, that, ever since the issue of that order, the action of

the Dominion government in issuing it, has been the subject of much adverse criticism. The federal ministers have been represented as taking Manitoba by the throat and trying to coerce its government and legislature into submission to the demands of the Roman Catholic minority.

On the other hand it has been contended with much force, that the action of the federal government was nothing more than was required by the constitution, in order to give effect to the judgment of the privy council. The only power that can give the minority any relief whatever, if relief be denied by the province, is the parliament of the Dominion. That parliament cannot speak, nor can the minority enter its doors with their petition, unless and until the Dominion executive shall have declared what modifications of the law, if any, is in its judgment needed to give relief. The remedial order was simply an order in council making such a declaration, and of course it is properly made in the form of an order in council. Without such an order, no relief could be given under the appeal, because without it parliament could not acquire jurisdiction. Unless, therefore, the Dominion government decided (as it might have done) that it would refuse redress of any kind, it had at some time to pass a remedial order.

Granting all that, however, it by no means follows that the making of the order at the time it was made was a prudent act. Principal Grant is undoubtedly right in saying that the decisive and serious step of passing a formal order, with a view to enabling parliament to intervene, should not be taken until every means of securing redress from the legislature had been exhausted. At the same time, neither Mr. Laurier nor he denies that the time may come when a remedial order must be passed. Indeed, they leave little room to doubt that in their view of it, remedial legislation will be necessary, in case of the continued failure of the provincial legislature to modify the existing law. But its failure to do so now, they think, is not to be taken as conclusive evidence that it will not yet do justice. The local ministers have not hitherto, in Mr. Laurier's judgment, been approached in a spirit that would justify an expectation that they would yield.

Without admitting that the provincial government is warranted in refusing to do justice, simply because the Dominion government may have summarily taken the formal step that will give parliament power to deal with the question, it is at least safe to say that Mr. Laurier's policy of conciliation is that most likely to lead to a settlement. Because of the delicate issues that are involved—issues that touch the tenderest feelings and the most deeply rooted convictions of different sections of the community, issues that are related to differences of creed and race—prudential considerations should have prompted the federal powers to resort to Mr. Laurier's policy, before taking a step that is liable to be regarded as a menace to the province. Wise counsels at Ottawa would have suggested the advisability of making an appeal in the name of patriotism and justice, to the hearts of Manitobans, before issuing an order that was almost the final step in the assumption, by parliament, of the power given it by the constitution to intervene.

If the government at Ottawa really failed to make such an appeal, and if they neglected before issuing the order, to bring the question before the Manitoba government in a conciliatory spirit, they cannot, I think, be held free from blame. Nor are they less blamable on their part, even though the Manitoba government on its part may be without excuse, in that it has not, in the spirit of patriotism, and with a regard to the admitted rights of the minority invited our own legislature to settle the matter.

In other words, the conditions that would justify the issue of the remedial order would not arise, until the government of the Dominion had first approached that of the province with a proposal that the latter should endeavor to settle the difficulty through its own legislature. Had this been done, and had the provincial government after a friendly advance, still failed or refused to take any step toward a settlement, then the issue of a remedial order would have been at least timely.

Again, even in the absence of such a proposal, if the provincial government, without awaiting the issue of an order from Ottawa, but in advance of it, and in anticipation of its issue had already announced its determination to stand by its law, and to grant no relief to the appellants, in that case too, there could be manifestly no fault found with the issue of a remedial order.

If, I say, either of such events had happened before the issue of the remedial order—that is to say, had a

friendly advance been made from Ottawa, and rejected by the province, or if with or without such an advance, the province had in fact given its answer before hand, refusing relief, clearly it could no longer be contended that the Dominion government was blamable in issuing its order, so that the minority could bring their appeal before parliament. Of course the terms of the order, whether it afforded adequate relief, or was unnecessarily liberal in that respect, would remain open for criticism. Manifestly, however, it would no longer be open to the objection that its issue was premature. A conciliatory advance once made, if peremptorily rejected, need not surely be renewed in order to justify the next formal step that the constitution contemplates. Nor need such advance be made at all, if the provincial government publicly proclaims before hand that it will not be moved, even by a remedial order.

There is not in the statement of the case presented by Mr. Laurier, or by Principal Grant, anything to indicate that either of the events I have suggested has happened. Assuming, therefore, that the facts are fully disclosed in their statements, I think they were fairly justified in severely criticising the Ottawa authorities for prematurely making the order. Are there any facts overlooked by those distinguished gentlemen, which, if stated would point to a different conclusion, I am bound to say that I think there are such facts, and I am somewhat surprised that more attention has not been given to them.

In the first place it is an absolute historical fact that the Dominion government did, long before the issue of the order, approach the government of the province and its legislature, with an appeal that the latter should settle the question. It is a fact,also, that the communication containing this appeal was couched in terms that were altogether unobjectionable and quite conciliatory. I will submit it, Mr. Editor, to the judgment of your readers. I refer to an order-in-council, passed at Ottawa, on the 26th of July, 1894, which recited the memorial presented to the government of the Dominion on behalf of the Roman Catholic minority of Manitoba, complaining of the law of 1890, and praying for relief, That order-in-council set out with considerable fulness the grievances complained of by the minority, and it was communicated along with a copy of the memorial itself, by the authorities at Ottawa, to those of Manitoba. From the concluding paragraph of that order I take the following extract:

"The statements contained in this memorial are matters of the deepest concern and solicitude in the interests of the Dominion at large, and it is a matter of the utmost importance to the people of Canada that the laws which prevail in any portion of the Dominion should not be such as to occasion complaint of oppression or injustice to any class or portion of the people, but should be recognized as establishing perfect freedom and equality, especially in all matters relating to religion and to religious belief and practice, and the committee therefore humbly advise that Your Excellency may join with them in expressing the most earnest hope that the legislature of Manitoba may take into consideration at the earliest possible moment, the complaints which are set forth in this petition, and which are said to create dissatisfaction among the Roman Catholics, not only in Manitoba, but likewise throughout Canada, and may take speedy measures to give redress in all the matters in relation to which any well founded complaint or grievance be ascertained to exist."

Can the most supersensitive critic find fault with the language I have just quoted? I certainly believe there is in Canada to-day no man who is more capable than Mr .Laurier of expressing, in fitting words, an earnest and patriotic appeal to the government of the province in the spirit that he himself approves. I doubt, however, if even Mr. Laurier could have greatly improved on the language of that communication.

What words could more appropriately or effectively have been chosen to convey the suggestion that, "the statements contained in the memorial are matters of deep concern in the interests of the Dominion at large?" How earnestly, and yet how respectfully, those words draw attention to the gravity of the complaints! Then, mark Sir, the language in which that is followed by an appeal to the provincial legislature, that it should give redress if grievances are found to exist. This part of the message begins, you will see, with a most temperate statement in general terms, of the great importance of seeing that legislation is never permitted to work injustice. "It is a matter of the utmost importance that the laws should not be such as to occasion complaint of oppression or injustice to any class or portion of the people." Then

it proceeds with an expression of "The most earnest hope that the legislature of Manitoba may take into consideration the complaints which are set forth in the petition, and which are said to create dissatisfaction among Roman Catholics." Not only is the hope thus earnestly and appropriately expressed, that the consideration of the provincial authorities will be directed to the matter, but there is added the like earnest hope that the legislature "may take speedy measures to give redress, wherever any well founded complaint or grievance is ascertained to exist."

The government at Ottawa did, then, approach Mr. Greenway, and did in conciliatory terms appeal to him to be "fair and just," as Mr. Laurier put it. In this message, at least, there was no attempt to take Manitoba by the throat—no mandate to the provincial legislature to repeal its school law—no order demanding that it should restore the old law; no coercion or suggestion of coercion; no threat or intimation of remedial legislation; nothing but an earnest appeal that the legislature of the province, from motives of patriotism and toleration, should give earnest thought to the gravity of the alleged grievances; and the expression of an earnest hope that if grievances were found to exist the legislature would give appropriate redress.

There was not in this message even a suggestion that the province had actually done any injustice, no opinion that the minority had a real ground of complaint, no request that the legislature should actually alter or modify its law in any particular, or at all. If grievances were found to exist; if the law did work injury to the minority; if it did take away any rights they had legally enjoyed, and in the enjoyment of which the constitution intended to protect them, even then it was not proposed that the federal authorities should ascertain what the wrongs were, or measure the extent of the grievance. The government at Ottawa simply asked the provincial legislature in whom the exclusive right to legislate on the subject was primarily vested, to investigate the complaints for itself and for itself to ascertain what grievances, if any, really existed. And if the complaints were ascertained to be well-founded, there was no intimation that the federal authorities presumed to dictate, much less that they intended to ask parliament to enact, the measure of relief. On the contrary, this message from Ottawa pleaded that the legislature itself should inquire into and settle the whole matter, applying such legislative remedies for any existing grievances as its own wisdom might suggest.

I repeat, Mr. Editor, that it is difficult to imagine any objection being taken to the spirit or tone or language of this message. To me it seems to be all that Mr. Laurier himself would have desired, as an appeal to the "hearts and souls" of Mr. Greenway and his colleagues that they might be "fair and just" to the section of the population complaining of being aggrieved. Looking at the terms of this message, one would almost imagine, indeed, that, during its preparation there hovered over the council chamber at Ottawa the spirit of the great departed chieftain, Sir John Macdonald, the only public man in Canada, in our day, who was the peer of Mr. Laurier in sweetening his utterances with courteous words and attractive phrases; and that the influence of the dead statesman was there present inspiring his old colleagues and successors in the preparation of the address to Manitoba on this delicate question, so that it might be couched in the "sunny ways of patriotism," so happily described by him who had been the Chieftain's great rival in his life time.

This message was duly received by the provincial government shortly after its date. The government at Ottawa had requested that it should also be laid before the provincial legislature. Instead of awaiting the meeting of that body, however, the Manitoba ministers by order-in-council dated the 20th October, 1894, made their own reply on behalf of the province. What answer did Mr. Greenway and his colleagues make to this most conciliatory and patriotic communication? Their answer denied, in effect, the correctness of all the statements of fact, and of all the conclusions therefrom, that were set forth in the Roman Catholic memorial. The answer declared that the minority had no ground whatever for dissatisfaction, unless it was one which the ministers held not to be really a grievance. And, "except that be a grievance"—— "it has been made clear that there is no grievance." The formal reply therefore was, that "the executive of the province see no reason for recommending the legislature to alter the principle of the legislation complained of."

In other words, Manitoba's answer

to Ottawa's earnest and conciliatory appeal, from which Mr. Laurier expected so much, was in effect this: "It is clear that there was no grievance. The complaints of the minority are groundless, and we will make no alteration in the law."

A friend of mine, who occupies a very distinguished place in Canada, and than whom there is no more fair-minded man in it, when I pointed out some of these considerations to him, made the reply, "But that order was made in July, 1894, before the Privy Council delivered its judgment; before the case was ever heard in London." "Show me," said he, "that such a communication was sent to the Manitoba legislature after the judgment of the Privy Council, and that such an answer, or that no answer at all, was sent from your house, and I will concede that no course was left for the federal government but at once to issue a remedial order." The words were not put exactly in that way, but that was the effect of the statement.

My friend had forgotten the facts of the case, and little blame to him for forgetting. Who can keep in his memory all that has taken place in this weary and many featured fight?

It is true that the Privy Council had not given judgment or heard argument until after the conciliatory message of July had left Ottawa. The government of Manitoba had also received it and had sent its own reply before judgment. But it is also true, though my friend had quite forgotten it, that the case had been argued in London, and judgment pronounced before that message of July could, or in fact, did reach its final destination—the legislature of Manitoba. That message along with the Roman Catholic memorial was transmitted by the federal government to the lieutenant-governor of Manitoba (and that means of course the Manitoba government)"with the request he will lay the the same before his advisors and before the legislature of that province."That legislature—my friend had forgotten the fact—did not meet until the 14th February, 1895, and before that time the privy council had delivered judgment.

Then, for the first time, the government of Manitoba was in a position to comply with the request of the federal governmentthat the message of July should be laid before the legislature. Is it possible to imagine that its receipt by that body could be more timely? Can one fancy that an occasion more opportune could arise for its presentation to, and consideration by the representatives of the people of Manitoba? Here was the legislature just meeting, fresh for the re-consideration of this important question; here was the judgment of the privy council deciding that the rights of the minority had been affected; here was the message of conciliation from Ottawa ready to be laid before them: that message was an solicitous for the "peace amongst all the creeds and races," that Mr. Laurier so eloquently pleaded for, as it was the day it was written in Ottawa The message had lost nothing of the earnestness with which, when first transmitted, it "appealed to the hearts and souls" of its recipients; the "lines of patriotism" in which it approached the legislature of the province and begged that body to consider the complaints and to provide a remedy in case of any well founded grievances ascertained to exist, had not in the meantime been obliterated: the "sunny ways" in which negotiations had been entered upon from Ottawa had not become clouded during the time the message lay in the pigeon holes of one of the departments, awaiting the meeting of the legislature to which Manitoba's minister had been solemnly charged to present it.

Was the legislature invited then to say anything on the subject? Yes—on the subject generally—it was and that most promptly. The attention of the house was drawn to the question on the very opening day of the session, and in the speech from the throne. But —and my friend had forgotten that fact too—the message of July—that message of peace with its spirit of conciliation—was not presented to the house on that day, or on any day before or since. The legislature of Manitoba, for which it was particularly intended—the body which alone could finally deal with it—the body before which, as I have said, ministers were specially charged to lay it, has never to this day, as far as I know, been informed even of the existence of the message. But for the enterprise of the newspapers that published it, the members of the legislature would never have known that such a message was sent.

As I have stated, however, the school question was referred to in the speech from the throne. It informed the house of the judgment of their lordships in England by which, to quote the words put in his honor's mouth, "It has been held that an appeal lies to the governor-general in council on behalf of the minority of this province, inasmuch as certain

rights and privileges given by prior provincial legislation to the minority, in educational matters, had been affected by the Public Schools act of 1890, and that therefore, the governor-general in council had power to make remedial orders in relation thereto."

And so the provincial government met the legislature with a frank avowal of the fact—it could no longer be concealed—that the rights and privileges of the minority, made sure to them by law, made sure to them, as David Mills put it, so that they "could never be taken away," had been affected by the law of 1890. And the government of Ottawa, it was conceded and formally stated to the house, had power to make remedial orders. "Whether or not," the speech proceeded to say, "a demand will be made by the federal government that that act shall be modified is not yet known to my government." Not yet, certainly not. The case had not yet been heard before the governor-general-in-council. But you will notice, Mr. Editor, that the provincial ministers had no thought of any communication from Ottawa except a remedial order. There is no suggestion of any middle course, no talk of negotiation or conciliation or reconsideration—nothing but a remedial order, a demand by the federal government that the law be modified.

The local ministers knew that one condition still remained unfulfilled, even if a remedial order were made, before parliament could pass a remedial law. The government of Manitoba must first show, and that after being served with the remedial order, that it does not propose to provide a remedy through the legislature of the province. Now the provincial ministers had made up their minds upon this point; they did not propose to offer any settlement of the question. Mr. Laurier says,—and I most thoroughly agree with him—that there should have been "approaches," and "negotiations" and conciliatory advances," and "appeals to heart and soul," and all that. But Manitoba ministers wanted none of these things. At the very time they were penning the speech from the throne with the one hand, they held in the other hand that message of conciliation and of negotiation, that contained in itself every feature that would gladden Mr. Laurier's heart, and which he so earnestly longed to be able himself to send to the local ministers. It was a message to the legislature, on a mission, to the success of which the patriotic and gifted Liberal leader would give his political life. Of course the ministers delivered that message to the legislature very promptly as soon as it met? Not they, indeed. They had a message of a different kind to deliver to the house. For a spirit of conciliation, for advances by way of negotiation, for the "peace amongst creeds and races," that Mr. Laurier so earnestly desired, Manitoba's ministers cared naught. To avoid the "strife and discord for the future in this land of ours," that their own federal leader so justly feared, was no concern of theirs. It was the very thing, indeed, that would surely secure them a further lease of power. Remedial orders; threats of remedial legislation; the point of the federal bayonet; the throttling of Manitoba by federal hands; the policy of compulsion; the policy of coercion and threat and brag, all so eloquently portrayed by Mr. Laurier, and, by his description of which he so aroused the people of Ontario to honest indignation—all these I say had no terrors for the ministers of Sir John Schultz. They expected nothing but a remedial order, they anticipated it, they invited it. Nay why should they beat about the bush? Their minds were made up, and they wished to proclaim their policy right then. They knew that when a remedial order came to be served it would be becoming in them to give an answer. Why not give it now even before the order is made, even before the case has been argued before the governor-general-in-council. They did so. I have said that while they threw the message of conciliation into the waste paper basket, they had a message of a different kind for the house—a declaration of their own policy. I quote again from the speech from the throne: "It is not the intention of my government in any way to recede from its determination to uphold the present public school system."

Surely, Mr. Editor, that was a plain enough intimation to the federal government that any further advances, or any renewed effort at negotiations would be fruitless.. Let us review the situation for a moment so that we may do the local ministers no injustice in stating that conclusion.

A communication had come from Ottawa some months before, reciting the complaints of the minority, and making an earnest appeal to the provincial government and legislature to inquire into these complaints, and to provide redress if the complaints were well founded. The legislature not being in session, the ministers replied

that the whole matter had been fully considered, and that there were no grievances to be redressed. At that time the court had not decided that grievances did actually exist. In February following, the legislature met—the legislature to which the communication from Ottawa was being especially sent, before which the provincial government had been particularly asked to have it laid; it was meeting for the first time since the receipt of the message by the ministers. Meantime the judgment of the court had come, deciding that by the law of 1890 the minority had been aggrieved. The moment the legislature met the government formally brought down the information in the speech from the throne, that judgment had been delivered; that the rights and privileges of the minority had been affected; that the right of appeal to the federal authorities had been sustained, and that the Dominion government had power to make a remedial order. Then was the time to deliver the Ottawa message to the house, and to consider it in the light of the judgment recently pronounced. But the ministers declined to deliver it, or even to refer to its existence. On the contrary they announced their "determination to uphold the present system." The legislature itself formally approved that determination.

What action then would be expected on the part of the Dominion government following such an announcement? The speech from the throne makes it plain that the provincial ministers expect nothing but a remedial order, and that they invited it. They had on their part determined to give no relief. The Dominion government must now decide on its part either to grant relief or to deny it. A remedial order must be granted in favor of the appellants or it must be refused; either the Dominion government will call for the modification of the law or it will not. That is practically what the provincial government said in the speech from the throne. And they generously helped to remove all difficulty out of the way of the federal authorities in taking decisive action. They did this by declaring in the speech from the throne, that in no case will the province give relief. Here are the apt words in which they did so: "Whether or not a demand will be made by the Federal government that that act should be modified is not yet known to my government," but "it is not the intention of my government in any way to recede from its determination to uphold the present public school system."

Surely, I repeat, it is clear that the provincial government thereby summarily put an end to all negotiations and that it challenged the Dominion government to an issue.

Let me now recall some of the passages from Mr. Laurier's eloquent and patriotic utterances in Ontario, and see how they apply to the actual facts: "If they had commenced with negotiations instead of threats, perhaps the matter would have been settled now." Certainly it would have been wise on the part of the Dominion government to commence with negotiations, and most carefully to avoid all appearance of threats. That, however, is just exactly what was done. The government at Ottawa practically invited negotiations by the message of July, but the Manitoba government rejected all the advances, and declined even to deliver the federal message to the legislature.

"I would approach this man Greenway with the sunny ways of patriotism, asking him to be just and fair." Assuredly that would be the most reasonable way of approaching the government of Manitoba on such a delicate question. But that is the very way in which the government at Ottawa tried to approach Mr. Greenway and his colleagues, and we have seen with what result. The approaches were promptly repelled with the answer that full consideration of the question had already been given, and that there were no grievances to be redressed.

"There is more to be gained by appealing to the hearts and souls of men rather than to be trying to compel them to do a thing." Beyond question the Ottawa government would have made a mistake if they had opened their proceedings by trying to compel Manitoba to reverse its law, and Mr. Laurier's sentiment is a perfectly proper one. As a matter of fact, however, the Ottawa government did commence by appealing to the "hearts and souls" of Manitobans, and did not set out with any effort to compel them to reverse the law.

"Do you expect that Manitoba was to be induced to reverse her course when she was not approached in a conciliatory manner; when she was almost threatend at the point of the bayonet to do what she did not want to do?" Without doubt the conciliatory course would be the right one in such a case, and it would have been madness to commence by threats such as Mr. Laurier speaks of. But then Manitoba was not in fact approached by threats, but with a

conciliatory message to the legislature which the members of the local government never delivered, while for themselves they peremptorily rejected the proposals of settlement. Where, I would like to ask, is the threat to be found in the communication of July, 1894?

"Manitoba's answer was 'We will not be compelled.' No, that was not Manitoba's answer. Manitoba's answer was 'Whether you issue a remedial order or not we will do nothing.'

"I did not think the government could hope that Mr. Greenway would give way under compulsion, but he might give way under conciliation." That would seem to have been the view the government at Ottawa took of it, for they did not attempt to influence Mr. Greenway by compulsion, but made a strong appeal to him in a most conciliatory dispatch, and we know the result.

"He believed with all his heart as soon as the government abandoned the policy of coercion, and threat and brag, and appealed to the people of Manitoba on the broad grounds of our common Christianity the people of that province would be not only just and fair, but generous to the minority." In that sentiment I would concur with all my heart if the government at Ottawa had started on a policy of coercion and threat and brag, but manifesly they did not do so. If threat and brag are to be found in any of the correspondence, I venture to suggest that it is to be found not in the communication from Ottawa but in the reply of Manitoba.

Mr. Laurier, of course, had not all the facts before him when he gave expression to these opinions, which in themselves are perfectly sound and good, had the state of facts been such as he doubtless believed them to be. But his remarks had no application to the actual facts as they existed.

What I have written does not, by any means, conclude the recital of the replies given by Manitoba's ministers to the advances made from Ottawa. What I have stated, however, will surely satisfy any reasonable man that there was at all events, no failure on the part of the administration at Ottawa to approach Manitoba in a conciliatory manner, with a view to settle this troublesome question; and that the failure to do anything towards a settlement has arisen mainly with the government in Winnipeg. The evidence that has yet to come, however, makes the case tenfold stronger against Mr. Greenway and his colleagues; but as this letter is already so long I will have to ask your indulgence to enable me to say something more about it in another communication.

JAMES FISHER.

Winnipeg, Nov. 20th.

To the Editor of the Free Press.

Sir,—In my former letters I stated some of the considerations that seemed to me to commend the federal policy advocated by Mr. Laurier on the school question—the policy of approaching the government of the province, in the first instance, in a conciliatory manner, and appealing to the legislature, on grounds of toleration and patriotism, to inquire into the complaints of the minority and to remedy any grievances found to exist. I submitted facts at the same time, which I think conclusively establish that this most admirable policy was the one actually pursued by the Dominion government. I showed that a most conciliatory message, couched in the most respectful language, framed to meet every requisite of Mr. Laurier's patriotic policy, was transmitted by the federal government to that of Mr. Greenway for submission to the legislature. I showed that the first meeting of the legislature at which that message could be delivered took place just at a time when its delivery would be the most opportune—just a few weeks after the judgment of the Privy Council had been pronounced finding that the minority had been deprived of rights and privileges which had been their's by law, and in the enjoyment of which the constitution contained provisions to protect them. I showed that instead of promptly presenting that message of peace on an occasion so timely, to the body for which it was specially meant never delivered it at all. I showed that at the same time the government of Mr. Greenway, on the very opening day of the house, while at last fully admitting the authority and power of the federal government, and while anticipating the issue of a remedial order demanding a modification of the law, formally and officially announced that whether such an order were made or not, it was the determination of the Manitoba government to make no concessions. I showed, in fact, that Mr. Greenway's government adopted the most curt and offensive way that could possibly be devised of repelling all advances towards a settlement in the form that Mr. Laurier would suggest, and that the government at Ottawa was practically challenged to issue a remedial order.

I intimated at the close of my last letter that I had by no means completed the recital of the events preceding the issue of the order which go to establish the truth of the statement just made. I now propose to present a few additional facts bearing testimony to it.

When the present appeal of the minority first came before the Dominion government for consideration, Mr. Greenway and his colleagues insisted that under the constitution the Federal government was absolutely powerless to do anything—that it was wholly without jurisdiction. They practically defied the authorities at Ottawa to take any action whatever in the matter. As early as November, 1892, shortly after the appeal came up for consideration before the governor-general-in-council, Attorney-General Sifton took occasion, through an interview in the Winnipeg Tribune, to announce the position taken by the government. I quote from his statement on that occasion the following very plain words. "It is said that the Dominion government assumes the power to act as some kind of a court of appeal in this matter and to receive petitions and to hear arguments. . . We deny the right of the Dominion government to interfere in this matter in any way whatever. . . Further the Dominion government has no legal power to take such action. By the constitution the power lies wholly within the jurisdiction of the provincial government." Gaining confidence in his own judgment as he proceeded with his statement, he ventured the further opinion that this proceeding was in reality an appeal from the judicial committee of the privy council to the Federal government, and having settled upon this as his decided conviction, he proceeded to characterise the appeal as being "the height of absurdity."

Again when the cable announced that the privy council had given judgment allowing the appeal and holding that the rights of the minority had been affected, the attorney-general was once more interviewed and from his statement on that occasion I quote the following: "If the Dominion government undertake to interfere in any way, shape or form, there will be a deadlock." In another interview which the attorney-general was good enough to give to a reporter about the same time, he thus put the case: The decision makes no difference with us. The Manitoba government cared little whether the Dominion proposed remedial legislation or not, as they had taken their stand, and it was a constitutional one and they would maintain it."

A colleague of the attorney-general was at the same time beguiled into disclosing the views of the provincial government to a reporter, and this is the way he expressed himself: "The decision does not affect us in the least; the people of Manitoba know what kind of a school system they want and any attempt on behalf of the Dominion to override their wishes in the matter of remedial legislation would be so much time thrown away."

These statements then represent the mind of Mr. Greenway and his colleagues down to the time they learned of the adverse decision by the privy council. But when the text of that judgment came to hand it appears to have opened their eyes for they came down to the legislature on its opening day, two weeks later, with the announcement that "certain rights and privileges" of the minority, "had been affected by the Public School act of 1890," that "an appeal lies to the Governor-General in council on their behalf," and that "the Governor-General in council has power to make remedial orders in respect thereto." The conciliatory message from Ottawa as I pointed out, was then in their hands; it was the first occasion on which they could have presented it to the house; it was above all, an opportune time for doing so and for considering it with the help of the recent judgment. But the message remained undelivered, and the government at Ottawa was challenged to issue its order. "Whether or not," continued the speech from the throne, "a demand will be made by the federal government that that act shall be modified, * * * it is not the intention of my government in any way to recede from its determination to uphold the present system."

But this is not all. It will be borne in mind, Mr. Editor, that at this time the federal government had not heard arguments on the appeal, and had therefore given no intimation whatever of an intention to issue a remedial order. To me as a member of the house, it seemed such an extraordinary step for the government, at that stage, to anticipate the issue of an order and to give its answer in advance, that I felt it my duty to put myself on record as seeking to promote a reasonable settlement of the question. I confess to having had grave doubts whether it was wise at that time to force a division on the question. The only circumstance that determined me to proceed was the

fact that the government had by the address called upon us to take a stand that would preclude a settlement. I therefore introduced a resolution on the subject for the consideration of the house. Unfortunately, I could not base it on the message from Ottawa because it had never been delivered to us. But happily the judgment of the privy council made a suggestion that opened the way to a proposal. My resolution accordingly set forth the opinion of the privy council as establishing that the educational clauses of the constitution were a "parliamentary compact," for the protection, amongst other things of the rights and privileges of the Roman Catholic minority in relation to education; that these had been affected by the law of 1890; that in the event of a remedial order, which the speech from the throne foreshadowed, being made in Ottawa, our refusal to make a settlement would give the parliament of Canada authority to legislate on the subject. I asked the house to say that it "would deplore the occurrence of anything calling for the exercise by the parliament of Canada of its authority to legislate." And referring to the suggestions of the judges of the privy council that "all legitimate ground of complaint would be removed if the present system were supplemented by provisions which would remove the grievance upon which the appeal is founded; and were modified so far as might be necessary to give effect to these provisions," my resolution asked the house to declare that it was "ready to consider the grievances referred to with a view to providing reasonable relief, while maintaining as far as possible, consistent with that object, the principles of the present act in their general application."

This moderate proposition the government refused to accept, and met it by an amendment declaring: "That any interference by the federal authorities with the educational policy of the province is contrary to the recognized principles of provincial autonomy." . . . "That this house will by all constitutional means and to the utmost extent of its power resist any steps which may be taken to attack the present system."

One more fact I wish to relate in this connection. On the argument of the appeal at Ottawa Mr. Dalton McCarthy, who appeared as counsel for Manitoba openly stated in the course of the argument that he understood the position of the Manitoba government to be that if a remedial order was made "they will not obey the order."

What purpose could be served by attempting further negotiation or making further conciliatory approaches, after the curt rejection of the overture of July, 1894; followed by the peremptory declaration at the opening of the legislature that whether a remedial order was made or not there would be no concession by the province; followed too, a few days later, by the decisive declaration of the legislature that any action on the part of Ottawa by way of giving the relief that the constitution contemplated would be "resisted," and that to the utmost extent of all the powers that the legislature could command; followed again, a little latter on, by the official statement of Manitoba's advocate before the governor-general-in-council that if a remedial order were made it would be met by defiance on the part of the province.

Surely, Sir, the time had now come, if the Ottawa ministers are not peremptorily to refuse all relief to the aggrieved minority—if the provisions for appeal engrafted in the constitution were not to become a dead letter—when the federal government must take the next step that the constitution provided for. That step, mark you, is not in any way to vary or affect the law complained of; it is not in the least degree to interfere with the jurisdiction of the legislature or to confer authority on the federal parliament. That step involves no more than the making of a statement by the federal government, in accordance with a duty imposed on it by the constitution, declaring in what respect, in its judgment, the law ought to be modified, but leaving it to the legislature to do so. It is a step, however, that the constitution says must be taken before parliament can have jurisdiction. Surely, I repeat, no one will dispute that the time had now come when the government at Ottawa was not only justified in taking that step, but bound to take it, unless, indeed, it was prepared to say definitely that no relief at all should be given under the appeal.

But, sir, it is a remarkable fact—a fact that seems to have been lost sight of in this discussion—a fact that Mr. Laurier could surely not have been cognizant of when he arraigned the government at Ottawa for adopting a policy of coercion and threat and brag, instead of the mild ways of conciliation. I say it is a remarkable fact that Sir Mackenzie Bowell's government was even still unwilling to abandon negotiations, still unwilling

to commit itself to a remedial order without one more effort at conciliation. From this policy of conciliation, so earnestly approved by Mr. Laurier and so faithfully followed at Ottawa, the Federal government was not to be driven by the peremptory rejection of their former advance. Not even the address from the throne with which Manitoba ministers met their house, admitting the right of Ottawa to make the order, anticipating its issue, and yet declaring in advance that it would not be regarded; nor yet the further declaration of the provincial ministers, confirmed by the legislature, that any step on the part of the federal powers to give relief would be met by resistance—nor even the declaration of Dalton McCarthy himself, flaunted in the very face of the governor-general-in-council, that any demand from Ottawa would be met with a flat refusal in Winnipeg—not all these rebuffs combined were sufficient to drive the government of Sir Mackenzie Bowell from its policy of conciliation.

And so it was determined to make one more effort by another conciliatory appeal of the character that Mr. Laurier so highly and so justly approves, in the hope that even yet the hearts and souls of Manitoba ministers might be moved, as the Liberal leader thought they could.

Of course, the official step in the procedure that the constitution required, in order that parliament might ultimately have jurisdiction in the event of a continued refusal of concessions at Winnipeg, must be taken. That could no longer be delayed. The provincial government had plainly invited it and practically challenged it. To evade the issue now would be a cowardly and contemptible thing on the part of the Ottawa government. The ministers at Ottawa must make an order now, unless I say it has been definitely and finally determined that under no circumstances would any relief whatever be given. The last session of parliament, as then contemplated was about to convene; the legislature was actually in session, and the session drawing to a close, so that delay at that time would have meant delay for a year at least, and for that there would be no justification. A remedial order must therefore be made. But along with, and taking precedence over the order itself, there was sent to Winnipeg another communication, pleading once more with the provincial authorities that they should themselves deal with the question. Let this communication speak for itself. It was in the shape of a minute of council approved by the governor-general on the 19th of March 1895. Like the minute of July, 1894, it set out very fully the complaints of the minority; it set out also the various contentions set up on both sides before the courts and before his Excellency in council. In particular, reference was made to the contention of Manitoba's advocate before the governor-general in council, that legislation once passed at Ottawa could be neither repealed nor modified by any power short of the Imperial parliament—that the assumption by parliament of its authority to legislate would in fact take away the exclusive jurisdiction from Manitoba forever, unless the Imperial authorities intervened. The provincial government was reminded that while its failure to deal with the question "might compel parliament to give relief," yet, "the provincial legislature is the proper and primary source" from which relief should come. And in language that was as earnest as it was courteous, this communication proceeded to urge upon the legislature that it should not, by refusing to deal with the question run the risk of "permanently divesting itself, in a very large measure of its authority, and so establish in the province an educational system which can not be altered or repealed by any legislative body in Canada."

To another most striking feature of this communication I must now draw attention You know, Sir, how constantly, and how persistently, it has been declared from the day the remedial order first saw the light, that it was a peremptory demand—a command—a decree, requiring that the old system of schools that prevailed before 1890 should be restored in every particular, and that it did not permit of any modification or compromise. I may discuss at another time how far this conclusion was justified, looking at the terms of the order itself. I simply now refer to the fact. Well it seems to have occurred to the Dominion government that such an interpretation might be given to the order, and so care was taken to have it clearly stated in this minute of council that a re-enactment of the old law was by no means necessary.

To make this clear the minute of council cited and adopted, and drew the attention of Manitoba ministers and legislature to, the language of the English judges to which I have already referred. The provincial authorities were reminded that these judges had declared that "it is certainly not essential that the statutes

repealed by the acts of 1890 should be re-enacted." They were reminded of the declaration of the English court that the system of 1890 "adequately supplied the wants of the great majority of the inhabitants of the province, and that all legitimate ground of complaint would be removed," by a modification and supplementing of that law.

This minute of council, I say, accompanied the remedial order. It was framed along with the order, issued at the same time, and placed in the very front of the order itself for transmission to Winnipeg, and was along with the order laid before the legislature.

We have seen how the government of Manitoba dealt with the timely and patriotic message of July, 1894. What reply did the government and legislature of the province make to the courteous and temperate appeal of March, 1895, that accompanied the remedial order, and that so plainly intimated that a re-enactment of the old law was not at all necessary. I have said that the message was laid before the legislature. That could not well have been avoided because it had been transmitted along with the order, and was attached to it. Strange to say, however, the government of Manitoba appear never to have realized that such a document had come into its hands. At all events the receipt of this most important communication was wholly and absolutely ignored. No reply to it was vouchsafed—even the receipt of it was not so much as acknowledged. A reply to the order itself was in due time sent from the legislature upon the motion of the government, but it made no reference to the receipt of any communication other than the formal order. To avoid any possibility of the reply being interpreted as dealing with anything beyond that formal document, it was actually set out verbatim in the reply, which then proceeded to deal with the document as there set forth, and as if it had been the only communication received. A proposal actually came before the House, by way of an amendment, that this communication should be acknowledged, and that consideration should be given to it. But this was resolutely opposed by the government and promptly voted down. Of course it followed that the suggestions made, and the considerations presented, in the accompanying message, were totally ignored. And the remedial order was treated as being a demand for the restoration of the old law. "We are commanded to restore to the Roman Catholics," said the reply of Manitoba, "substantially the same privileges which they enjoyed previously to 1890" But the communication from Ottawa that was attached to the order plainly gave the legislature to understand that the re-enactment of the old law was not at all called for—that a modification of the present law, with some supplemental provisions, would serve all that was necessary, without re-enacting the old system.

That a communication of so important a character, framed so carefully on the lines that the Liberal chief recommends, with a view to friendly negotiation and settlement, should never receive the courtesy of an acknowledgement, would, under ordinary circumstances, seem exceedingly strange. But the action of the provincial government in ignoring it was consistent with its position throughout. It had been anticipating a remedial order, almost impatient for its coming, so that the legislature might have the chance of putting itself on record as ready to resist.

But the strangest thing of all is that, after the sending of the courteous and conciliatory message of July, 1894, and considering the manner in which the provincial authorities disposed of it—after the repeated and most unmistakable declarations of the government and legislature of the province, even before the appeal was heard, that all advances towards a settlement would be disregarded—after the sending of the earnest appeal of March, 1895, and considering that its existence was ignored and even its receipt unacknowledged, we should find the land resounding with denunciations of the Dominion government because, forsooth, it had not attempted to conciliate the provincial authorities or approached them in the sunny ways of patriotism, but had killed all chance of a friendly settlement by summarily adopting a policy of coercion and threat, and taking Manitoba by the throat. Such, however, strangely enough has been the case. The daily and weekly press from the Atlantic to the Pacific has been filled with protests against the outrageous tyranny of the Ottawa giant that would thus throttle the poor province. Pulpits in every part of the land have been ringing with the same denunciations, and tens of thousands of earnest Christians have been raising their voices to Heaven pleading that the spirits of Manitobans might be aroused to resist the federal tyrant. Synods and assemblies, conferences and Presbyteries, of the Christian churches in Ontario

and elsewhere, have entered the lists to defend this poor province about to be crushed by the heel of the Ottawa monster. Learned and pious, and eloquent professors and principals of theological colleges have risen to the sublimest efforts of their lives, as they have pictured the wrongs attempted to be imposed on us—unhappy people of the Northwest. And with appeals that are, in themselves, as truly noble and patriotic, as the real facts make them ridiculous, they plead with the Dominion government to remove the hated order. Not, indeed, that all these good people are intolerant, or would find any fault with the province if it were voluntarily to make reasonable concessions to the minority. On the contrary nearly all who have been the most prominent in these denunciations and appeals are amongst the warmest admirers and backers of Sir Oliver Mowat and the Globe, who pin their faith to the Ontario system of schools as being on the whole the very best on the continent, and who would not to-morrow give up the separate schools even if every constitutional restriction were removed. The attacks upon the action of the Dominion government along the whole line have been based particularly upon these two ideas—First, that the remedial order is a positive command to restore the old system as it existed before 1890; and second, that the Dominion government arbitarily made this order without first approaching the authorities of the province in a conciliatory and patriotic spirit and giving them an opportunity of settling the question through their own legislature. Strange it is, I say, that all this cry should have been raised in the face of the facts—facts that cannot be gainsayed—that I have stated in this and in my second letter.

But perhaps it is not so strange after all. It is impossible that people can keep in mind the various phases and incidents of this vexed and troublesome question in its kaleidoskopic presentations. The view of it that was presented yesterday is forgotten to-day because of a new feature that comes to our view, to be in turn forgotten to-morrow when some other phase of it shall be presented. And most unhappily it has become the football of party politicians. It is a useful question to keep Mr. Greenway and his colleagues in office. Equally, and even more unfortunately, it is being made a means of promoting party advantages in Dominion politics. Perhaps the circumstance that, above all, misled the people of Ontario on the facts was the visit of Mr. Attorney-General Sifton to Haldimand last spring. The period of his visit there was long after the receipt of the message of July, 1894, long after all the events following it that I have in these letters related, had happened, down to and including the receipt of the equally conciliatory message of March, 1895. Mr. Sifton went to Haldimand to present the cause of Manitoba, to appeal to the people of Ontario against the oppression of Ottawa. He went especially to rouse the Orange men of Haldimand by the cry of "no surrender." He pictured Manitoba as being throttled and coerced, and pleaded for sympathy in that quarter, so likely to be sympathetic to such an appeal. "It is an order which requires that Manitoba should give the Roman Catholic people of that province, not such a system as you have here, but a separate school system exactly the same as we had prior to 1890," was Mr Sifton's language in Haldimand. And he added: "That is an order to restore these Catholic schools and mind you, we cannot compromise with it. There is no way to compromise with this order to restore the schools just as they were. In fact we cannot do anything." Mr. Sifton had just left Winnipeg after perusing the communication from Ottawa intimating that it was not necessary to restore the old system, but he does not tell them that.

"There is no way to compromise," said Mr. Sifton, but he knew that since July, 1894, the government at Ottawa had been appealing to him and to his leader to have the matter enquired into and settled amongst ourselves without federal intervention. "In fact, we cannot do anything," said Mr. Sifton and yet he failed to tell the Orangemen of Haldimand how the appeal from Ottawa that they should "do everything" in Manitoba, was curtly repelled by his government; that the message to the legislature pleading that Manitoba should "do it all," was never presented to the house. He did not tell them of the message that accompanied the remedial order urging, once more, that Manitoba, and not Ottawa, was the proper source from which relief should come, and that every consideration of patriotism called on the legislature of the province to deal with the question. He did not tell them that his government had not the courtesy even to have the legislature acknowledge the receipt of this communication. Mr. Sifton's purposes would not be served by telling of these things. A recital of these

facts would not fire the hearts of the Orangemen, which was then his chief aim.

I might go on to refer to the fact that even yet the government at Ottawa is still pursuing the same policy of conciliation and entreaty that Mr. Laurier so highly commends. I might show that even since the issue of the remedial order and the receipt of Manitoba's reply, ignoring as it did the important message that accompanied the order, a third communication has been sent to Winnipeg declaring as explicitly as before that a restoration of the old law is not necessarily demanded, and appealing once more to the Manitoba legislature to settle the question without federal intervention. But this event is one of such recent occurrence that it cannot yet be forgotten, and I will not take up space in recalling it.

An eastern paper has suggested that I practically accuse Mr. Laurier of wilfully misleading the people of Ontario when he denounced the government at Ottawa for failing to make friendly overtures to Manitoba in the spirit of patriotism, in the interests of peace and harmony and unity; and for creating the present strained position by summarily adopting a policy of coercion and threat. Far be it from me to suggest that the Liberal leader wilfully misled anyone. I have no reason to bring such an accusation. I have simply shown that Mr. Laurier's statements were not at all justified by facts, but I am confident that, like the public whom he addressed, he had either never known the real facts or had quite forgotten them.

I must not omit to refer, however, to another most important feature of the attack of Mr. Laurier on the Federal government. I refer to his contention that the Dominion government should have had a full investigation of the facts before proceeding to issue an order. With your leave, I will discuss that in another letter.

JAMES FISHER.

Winnipeg, Nov. 30, '95.

To the Editor of the Free Press.

Sir,—It is becoming more and more apparent to thoughtful observers of Canadian public affairs that the Manitoba school question has brought us face to face with the most serious problem which has hitherto confronted the public men of the Dominion. We have, by allowing this question to reach its present stage without bringing about a settlement, arrived at a crisis in the history of our confederation that threatens to involve us in most serious difficulties; in the resurrection—perhaps in a form more intensified than ever—of the very same difficulties that the union was specially intended to settle, finally and forever. The opinion too is more and more gaining ground that the whole trouble has risen through a rash disregard, in this particular case, of the compacts and settlements upon which the union was based. Be that as it may the seriousness of the situation is almost universally acknowledged. And because the responsibility is, by the constitution, cast on the federal government of eventually providing a solution, in the event of a settlement not being reached in the province, it becomes the duty of all good citizens, and especially of all public men, loyally to assist that government to the utmost of their power in reaching such a solution. At the same time it must be manifest that the government is open to criticism—unsparing criticism it may be—if it fails to adopt a patriotic or wise course to that end. Mr. Laurier was perfectly within his right in his criticism of the government at Ottawa: and his own declaration of policy was a most wise one, in so far as the quotations from his utterances in my previous letters represent his views. But feeling as I did that, however honestly they may have been made, his statements of fact upon which he based the attacks I have referred to were absolutely without foundation, it seemed to me that it was my duty to present to the public the facts that I collated in my past letters. There is, however, another ground upon which federal ministers are denounced by Mr. Laurier. He says it is clear that there is a right of appeal. The question that troubles him is whether, granting the right, there be really such a grievance as will warrant the government in furnishing a remedy. "This is not a question of law," said he, "it is a question of fact; find out what the truth is; find out if the grievance is such to warrant interference with the schools of Manitoba." The government of the Dominion he says took no steps to enquire into the facts, but peremptorily issued a remedial order, without having first ascertained whether the facts warranted interference or not.

Mr. Laurier is undoubtedly right when he says that the government should not think of inviting parliament to exercise its power to pass remedial legislation without an enquiry into the facts. There was clearly a solemn responsibility on the gov-

ernment to satisfy themselves as to the facts so as to be able intelligently to decide, in Mr. Laurier's words, "whether the facts justify interference." If the government failed to satisfy themselves on the facts then they are indeed justly blamable. Not only on the government, but also upon every member of parliament did there rest a solemn responsibility to satisfy himself on the facts. Without that how could parliament deal with the question? And yet it had been anticipated from the beginning that parliament would have to do so. It is inconceivable that the government and parliament, having had in view ever since the spring of 1890 the possibility of having to deal with the question, would have left the enquiry untouched until now.

What then is the fact on this point? Was there no thought given to the necessity for such an enquiry? Beyond all question it is a fact that parliament, long since, recognized the necessity for it and took means to provide for it. Let me recall the events of the federal session of 1890. The school act of 1890 had no sooner come into force than the protest of the Roman Catholic minority was presented to the Dominion government. The minority protested in the first place, that the act was unconstitutional and therefore not binding. In the next place they made their appeal for relief to the federal powers, under the constitution. Before the federal session of 1890 closed, the attention of the house of commons was drawn to this appeal. It was brought up by Mr. Laurier's own distinguished colleague, Mr. Edward Blake. Mr. Blake at once recognized the gravity of the duty liable to be cast on the government and parliament to deal with this appeal. He did not hesitate for a moment to take such action as might help them to do so. He knew of course that upon the government especially rested the duty of taking means to make the necessary investigation. But he felt that a duty was cast upon the whole house of commons to facilitate the settlement of so serious a question. And so, although not burdened with the responsibility of office, he promptly came to the aid of the government with a proposal for such an enquiry as he deemed suitable. On the 29th of April, 1890, he moved in the commons this resolution: "That it is expedient to provide means whereby on solemn occasions, touching the exercise of * * * the appellate power as to educational legislation, important questions of law or of fact may be referred by the executive to a high judicial tribunal for hearing and consideration, in such mode that the authorities and parties interested may be represented, and that a reasoned opinion may be obtained for the information of the executive."

Mr. Blake, in speaking on the motion, frankly declared that it was the Manitoba case, and his desire to facilitate the settlement of it, that led him to deal with the subject. Speaking of the provisions of the constitution concerning, amongst others, educational appeals, he said: "My object is, without discussing how far they are wise, taking them as they are, to facilitate the better working of them." And again he said: "When you act on the appellate educational clauses, as, for example in the case of Manitoba, the very case which is now in a sense pending, as to whether any relief is due under the appellate clause to those who claim it, you have a mixed question of law and of fact and it seemed to me that in this particular instance I was constrained to provide for an emergency which may arise." How he was to provide for the emergency is plainly shown. "The executive," said he, "should have power to call in aid the judicial department in order to arrive at a correct solution." And again: "I would recommend such a reference in all cases of educational appeal, to one of which I am frank to say my present motion is due".

Mr. Blake, I say, made his meaning perfectly plain. If an appeal should be presented under the educational clause it would be the duty of the government and parliament to have an enquiry made in order to ascertain "whether any relief is due to those who claim it". Such an enquiry involved questions of fact as well as of law. For the purpose of such an enquiry, "the executive should have power to call in aid the judicial department in order to arrive at a correct solution."

Mr. Laurier, speaking of the present time, tells us that, "It is the duty of the government to investigate the subject and to ascertain what the facts are in order to see whether or not a case has been `made' out for federal intervention. The question cannot be settled until there has been such an investigation, to see what are the rights and provisions of the case." But here we find Mr. Laurier's colleague making provision for such an investigation more than five years ago. What Mr. Laurier professes to aim at to-day is just what Mr. Blake provided for in April, 1890. Mr. Laur-

ter says he proposes "to enquire into the facts and see whether they justify interference." Mr. Blake in 1890 proposed to enquire, not simply whether there was a right of appeal, but, "whether any relief is due under the appellate clause to those who claim it," and for that purpose he proposed to refer the question to a high judicial tribunal for consideration.

This resolution was of course supported by Mr. Laurier. It was carried at all events by a unanimous vote. In the following session, a bill framed on this resolution was introduced by the government and passed into law. Mr. Laurier now asks the government to appoint "a commission of investigation." Here was a commission—and the most competent and independent that could be suggested—provided five years ago for this very purpose, and that with Mr. Laurier's own approval. Not indeed a commission instructed or authorized to make an investigation at that time, because the appeal was then only "in a sense pending," as Mr. Blake put it. It had not yet come up for consideration. But the commission was created so that if the appeal did eventually proceed it would be the duty of the executive to make the reference.

I pass on to another stage in the history of the case. From 1890 to the fall of 1892 the appeal remained in abeyance. In the meantime an issue was presented to the courts, in the Barrett case and in the Logan case, to test the constitutionality of the act of 1890 under another clause of the constitution. That issue in 1892 was decided against the contention of the minority. Here I desire to draw special attention to the fact that evidence on the points on which Mr. Laurier is so earnestly seeking light was very fully submitted in these two cases. I have tried to ascertain from his speeches in what particular line he proposes to pursue an investigation of facts. I quote from his Morrisburg speech the following: "But what are you to investigate? There are many things to investigate. You will have to see what is the position of affairs, what is the relative strength of the population, how the groups of population are constituted, and how far the pretensions of the minority can be met without encroaching upon the rights of the majority."

I grant that without an enquiry into these facts it would have been madness, aye it would have been gross wickedness, on the part of the Dominion government to issue a remedial order. But let Mr. Laurier peruse the evidence put before the courts in the Barrett and Logan cases, and let him say whether there has not been, in these cases at all events, a full disclosure of all the facts on the subject that he suggested for enquiry in his Morrisburg speech at least.

"You will have to see the position of affairs," said Mr. Laurier, and, presumably he refers to the position of affairs in Manitoba as touching, and relating to, educational affairs. Well he will find the "position" very fully and very clearly set out in the affidavits filed in these two cases. He will find the position shown not only as it was in 1870, when the union was formed, but as it was thereafter down to the passage of the law of 1890."

"You will have to see what is the relative strength of the population," added Mr. Laurier. And sure enough the whole matter is most carefully, most fully and most minutely gone into; statements upon oath were made as to the total population of the province at the union, and in 1886 and in 1891,; statements as to the relative populations in the Catholic, the Anglican, the Presbyterian, the Methodist and the Baptist churches; statements also showing the population in cities and towns.

"You will have to see how the groups of population are constituted." I am not sure that I understand exactly what this means, but probably it refers to the distribution of the Protestant and Roman Catholic populations territorially. Well that is a question that needs no commission to investigate it. Every one in the province knows that the Catholic population is almost altogether settled in groups in the old parishes and in Winnipeg and the larger towns. As Principal King put it at the recent meeting of the Presbyterian synod here: "A large portion of the Catholic population is situated along the two rivers where there are almost no Protestants." There is perfect agreement between all parties to the controversy as to this question.

"You will have to see how far the pretensions of the minority can be met without encroaching upon the rights of the majority." Well if there is any one matter that was, more than any other, fully gone into in the affidavits filed in these two cases, it was this particular matter. The whole position was most thoroughly stated. Amongst those who made affidavits on this question were the Bishop of Rupert's Land, Dr. Bryce (two affidavits,) the late Mr. Alex. Logan, Mr.

R. H. Hayward, Mr. Alex. Polson and others. On the side of the minority was the affidavit of the Archbishop of St. Boniface.

I am sure that every one who reads these affidavits will admit that the position in the province as affecting education, and that every feature of the position that could affect or be affected by the operation of the law of 1890, or by the granting of relief to the minority, was most fully shown. Every consideration that could be suggested against the granting of relief because of interference with the rights of the majority, was carefully disclosed and dwelt upon in the affidavits filed on behalf of the majority. And best of all, the facts stated in the affidavits on both sides were practically admitted on all sides to be true. There was no objection on either side, that I now recall, to the statements of facts presented to the courts. The questions of fact were fully and exhaustively discussed by counsel on either side, and considered and dealt with by the courts.

I turn once more to the appeal case. Judgment having been pronounced by the privy council in the Barrett and Logan cases, affirming the constitutionality of the law of 1890, the appeal was then proceeded with. The time had now come when it became the duty of the federal government, under the terms of Mr. Blake's resolution, and the act of 1891, to submit a case for the opinion of the supreme court upon questions of law and fact. The reference was in due course made and practical effect was thus given to Mr. Blake's resolution. How were the facts to be ascertained so that the court might give them consideration? Was fresh evidence to be taken in the appeal case itself, or were the facts disclosed in the other cases to be taken as sufficient, and were they to be submitted as they stood to the tribunal for consideration? The latter course was adopted by the government in preparing the draft case, but of course it was subject to revision by the authorities of Manitoba. The facts had been fully stated to the satisfaction of all parties in the Barrett and Logan cases. The whole of the proceedings in these cases therefore, including the memorial, petition and affidavits, the arguments of counsel and the opinions of the judges, were made part of the case submitted on the reference. The whole of the information that was supplied by both sides in these cases was consequently furnished to the court in the appeal case. Is it Mr. Laurier's opinion that there should have been further enquiry as to facts? If such further enquiry should have been made certainly the members of the court were the proper persons before whom to have it made. At least it was the body to which parliament had directed the government to refer questions of fact as well as of law. If there were not sufficient facts before the courts in the Barrett and Logan cases it could easily have been arranged that a further enquiry should be had in the appeal case. Parliament could have so directed had the necessity for it been suggested. Parliament was in fact in session when the order-in-council of February, 1893, was made, directing the reference. It was brought down to the house and printed, and the matter was discussed in the commons. No suggestion was offered that the tribunal should make any further enquiry.

The government made a statement in the house in reply to Mr. Laurier himself, and the order-in-council laid before the house in terms declared, that a special case, which, however, was not laid before the house, was to be prepared for submission to the court, and that the government of Manitoba, and also the representative of the majority, would be invited to confer with the federal authorities as to the form of the case, and as to the nature of the questions to be submitted for the opinion of the judges.

Here surely was the opportunity for any one desiring to suggest any particular matter for enquiry. The evidence in the Barrett and Logan cases had just been laid before the house, so that any member interested could ascertain how far the facts there disclosed covered the questions on which he might desire to be informed. The government, having invited suggestions from the authorities of Manitoba, as well as from counsel for the Roman Catholics, as to the form and extent of the enquiries to be made before the court, would surely have given consideration to any suggestions offered in the commons. Particularly might one expect this seeing that the suggestion to make the reference had come in the first instance, not from the government at all, but from the house. It had come in fact from Mr. Laurier's own predecessor in the Liberal leadership. Who can doubt that the government, which had so readily and so thankfully adopted Mr. Blake's proposal for a reference and his advice as to the scope of it, would pay heed to any suggestions from Mr. Laurier in the same direction? At all events no suggestions were made.

It is true that in his speech on the Tarte motion that session, Mr. Laurier referred to the contention that the public schools of Manitoba were in fact Protestant schools. Assuming it to be true, he spoke of this fact as one that intensified the wrong done, and he blamed the government for not having had an investigation to ascertain if it were really true. Well, as to that, the question had already been considered in the Barrett case. One of the judges of the supreme court had declared that the schools were in fact Protestant. But the privy council declined to adopt that view and held the contrary. The complaint of the minority, however, never rested on the ground that the schools under the law of 1890 were Protestant schools. Mr. Laurier himself would not for a moment allow it to be said that this was the real issue. The real grievance was that the Catholic schools were interfered with, that the rights enjoyed by the minority by law with respect to their own schools were taken away. Mr. Laurier is on record as declaring over and over again that purely secular schools—schools without a vestige of Protestantism—would be equally objectionable to Roman Catholics. To what purpose would an investigation have been made as to whether the schools were Protestant or not? A finding that they were not Protestant would not have solved the difficulty.

But we are told that the government of Manitoba is urging the necessity of an investigation. And it is true that in the reply of the Manitoba legislature to the remedial order it is suggested that "it is not yet too late to make a full and deliberate enquiry into the whole subject." The government of Manitoba, of course, knew the steps that had been taken five years ago to provide for an enquiry. One of the members of that government was a member of the Commons in 1890, when Mr. Blake's resolution was adopted, and in 1891 when the Bill giving it effect was passed, and he gave his assent to the mode of enquiry then provided.

What did the Manitoba government do to facilitate a full enquiry when the time came to refer a case to the court? Here let me draw attention to the views expressed by Mr. Blake as to the manner in which the case should be put before the courts. I quote from his address to the Commons: "I attach little comparative importance to judicial solutions reached without argument. The experience of mankind has established as the essential ingredients for the attainment of justice between man and man, the opposing arguments of the parties before a tribunal and the reasoned judgment of that tribunal. Let the opposing views be stated, presented and sifted, in public and in the presence of the parties, so that the best material for consideration will be obtained."

Surely Mr. Blake was right, and certainly the Commons adopted his view of it. The resolution itself provided that the case should come before the court "in such mode that the authorities and parties interested may be represented." If the Manitoba government was anxious to have a full enquiry it would certainly take advantage of this reference and help to make it as full as possible. Did they do so? The appeal came up for argument in the first instance before the governor-general in council, when it was determined to make the reference to the courts. The government of Manitoba was invited to be represented on that occasion. But they declined to attend or to take any notice of the proceedings.

The governor-general-in-council, as I have said, then determined to refer a case to the courts. An order in council was adopted on 22nd February, 1893, directing a reference. The first step, however, was to notify the government of Manitoba that such a course had been decided upon, and the provincial government was invited to confer with the federal authorities in settling the form of the case to be submitted, and the questions to be considered before the courts. I assume that no delay took place in sending this invitation, after the adoption of the order in February. Well, two months passed and no response came from Winnipeg. Finally on the 22nd of April, 1893, the federal government had to prepare its case without assistance from Manitoba. A draft of the case was prepared in the form I have stated, but still subject to revision by the province. Though Mr. Greenway and his colleagues had so far declined to take part, the federal government was, even yet, unwilling to close it without giving Manitoba another chance. A copy of the case was accordingly transmitted to Winnipeg inviting suggestions as to any changes or additions.

Was the government of Manitoba at that time anxious for an investigation and desirous of helping to make it as complete as possible? If so we would find them promptly taking part in completing the case and making suggestions as to how the enquiry

could, if need be, be made wider than the Ottawa government had made it. But again there was the same silence. No response from Winnipeg; and the federal government had to put in the case with no changes, except such as may have been suggested on the part of the minority.

The next step was the argument of the case before the supreme court. There at all events we are sure to find the government of Manitoba represented by the most able counsel that could be procured. Mr. Greenway and his colleagues, and especially the colleague who had so heartily applauded Mr. Blake in his utterance of 1890, could not fail to appreciate the necessity of presenting "the opposing arguments of the parties before the tribunal," as Mr. Blake put it. They fully agreed no doubt with Mr. Blake that "the opposing views" ought to "be stated, presented and sifted, in public and in the presence of the parties, so that the best material for consideration will be obtained." And yet when the case came up for argument in the supreme court, Manitoba was again unrepresented. A member of the bar did indeed appear before the judges, but only to say that the province declined to take part in the case. Having regard to the importance of the question, however, and to the impossibility of considering it satisfactorily without argument, the court appointed a most distinguished member of the bar to plead Manitoba's cause at the expense of the Dominion. Thereupon, according to my recollection—and as to this I speak only from memory—the agent who appeared for the province raised an objection even to this means being adopted to have the case argued. At all events Manitoba remained outside of the bar.

The government of Manitoba having thus persistently declined to assist in the consideration of the case presented to the court, or to take part in the argument of it at Ottawa, the federal government appear to have determined on one more effort to get the provincial authorities to enquire into the matter. Accordingly the message of July, 1894, to which I have referred in previous letters, was transmitted, urging that the legislature of Manitoba should itself enquire into and consider the complaints, and the question of redress; and a memorial setting forth the complaint was transmitted with the message. What was the reply of the Manitoba government to this proposal? The legislature, as I have shown, never saw this message, but in October, 1894, the government itself made a reply, and I quote from it the following:

"The questions which are raised have been the subject of most voluminous discussion in the legislature of Manitoba during the past four years, all of the statements made in the memorial and many others have been repeatedly made to, and considered by the legislature."

In other words the reply says in effect: "There is no use in further enquiry or consideration in the matter, it has been fully enquired into and considered for four years and there is nothing more to be said." And this is the government that now calls for an investigation, and protests that a full inquiry should be made before invoking the powers of parliament.

Is not this whole suggestion of an enquiry, in so far at least as it comes from Manitoba, a mere subterfuge? Every opportunity for an enquiry in a manner that commended itself, at the time, to all parties, has been afforded. Every proposal that Manitoba should assist in that enquiry was rejected; every obstacle was placed in the way of its being made as full and complete as possible. A friendly request that the legislature of Manitoba should enquire independently into the whole matter was met with the curt reply that it had already been doing so for years. And now, at the last moment, after all these events have happened, the idea of Manitoba posing as the party that is so anxious for an enquiry, and so desirous of assisting in it, is most absurd.

Looking at these events, I am equally unable to see any justification for Mr. Laurier's charge that enquiry into the facts has hitherto been neglected at Ottawa, or for his contention that an investigation is now required. And I am not surprised that Mr. Dalton McCarthy, at Orangeville the other day, felt called on to declare that there was not a shred of justification for a commission of enquiry.

JAMES FISHER.

Winnipeg, Dec. 6, 1895.

To the Editor of the Free Press.

Sir,—There are some features of the Manitoba school question somewhat distinct from those which I discussed in my recent letters upon which I now propose with your leave to offer some observations.

The question is constantly being asked—and much discussion has taken place upon it—how far the judgment of the privy council imposes a duty on the federal government and parliament to intervene, for the purpose of giving redress to the minority. Admitting all that, the decision of the court implies—that the minority are aggrieved by the present law; that they have been deprived thereby of rights which they formerly enjoyed; that the constitution contains provisions which were embodied in it for the express purpose of protecting them in the enjoyment of those rights; that this appeal is being prosecuted under the terms of those provisions; that the rights of the minority to make the appeal thereunder has been upheld; that the court has found the facts established in this case to be such as justify a claim for redress; that the federal government had authority to pass a remedial order, as a formal and necessary process, leading to intervention by parliament, and that parliament is expressly empowered to grant redress: Admitting all these propositions, the question is asked whether, even then, the authorities at Ottawa are called upon to intervene, or would be justified in doing so. Is it not after all a question of public policy, to be decided by government, whether or not it will ask parliament to pass remedial legislation? Is it not still discretionary with the government to advise for or against relief? Is it not still open to parliament to refuse redress?

Then, if the answers to these questions be in the affirmative, ought not the federal authorities it is urged to refuse relief? Can there be any justification indeed for intervention? The great majority in Manitoba prefer the present law. Why then should the Dominion powers intervene to change that law, against the wishes of the great majority in the province? Will not such action on their part be an unwarranted invasion of provincial rights? Does not the recognized doctrine of provincial autonomy—the central doctrine, it may be said, of the union scheme—absolutely forbid it?

These are considerations that are seriously troubling a large section of the Canadian population. The Toronto Globe has taken very high ground on this point, declaring in the most emphatic terms that Dominion intervention would "wantonly violate the rights of the provinces," and that it is "preposterous" to assume that the Dominion government is at all "bound" by the judgment of the court to give relief. A great many other influential papers and many pulpit and platform speakers take the same position. They are unable to understand how the Dominion parliament, with a due regard to provincial rights, can assume to impose a law on Manitoba against the will of its people, and that upon a subject matter which is primarily within the exclusive jurisdiction of its own legislature. They find it difficult to square federal intervention, in such a matter and in such a manner, with the essential doctrine of provincial autonomy.

To sustain this position extracts are quoted from remarks made by the judges of the English court in the course of the argument of the appeal—remarks which suggest in effect that whatever the judgment of the court might be, it must still remain optional with the Dominion government either to grant or refuse relief.

I admit at once, without any qualification, that parliament is not absolutely "bound" to give relief, or to give any effect whatever, to the decision of the court. The remark of Lord Watson that his opinion cannot "relieve the governor-general in council of the duty of considering how far he ought to interfere." The suggestion of the same judge that "what is given to the governor is a discretion to do what he thinks fit on appeal," and the statement of Lord MacNaughton that the "Dominion parliament, I suppose, are not bound to intervene, may all be accepted as good law, though they formed no part of the judgment of the court. Nor can Mr. Blake's statement that according to the statute creating the tribunal, "both in political capacity the Dominion government are not bound by the advice" of that tribunal be disputed, as he was simply stating a fact that any one can verify on reference to the statute.

These propositions beyond question are all true. But then nobody, so far as I know, ever said to the contrary. When Mr. Blake introduced his resolution of 1890 in parliament Sir John Macdonald took pains to have it expressly declared that in no way should the opinion of the judges relieve the ministers of the crown of their duty to decide the question on their own responsibility as ministers. Under our system of government it would be a fatal mistake to permit ministers to be relieved of the duty and responsibility of settling important questions of policy by taking the opinion of a court. Sir John Thomp-

son took exactly the same ground from the beginning. Sir Mackenzie Bowell has plainly said the same thing. The responsibility does indeed rest on the Dominion government, and from that responsibility it cannot be relieved. It is not absolutely "bound" any more than parliament is, to take the advice of the tribunal to which the law authorizes the reference; on the contrary, the ministers and parliament (in the event of its reaching that body, must in the end decide for themselves, first whether any relief at all, and next what relief, if any, shall be given. And if the government shall take the responsibility of introducing remedial legislation into parliament it must be prepared to justify its action on grounds of public policy.

Do the facts and circumstances then in this particular case, viewed in the light of the judgment of the court, demand or justify federal intervention? In seeking for an answer to this question, it may be instructive, Mr. Editor, to recall the circumstances which led to the engrafting of the appeal clauses upon the constitution. These circumstances have occasionally been referred to within the past two or three years, but I am inclined to think they have been largely forgotten or overlooked.

Before confederation Ontario (then Upper Canada) had a system of Roman Catholic separate schools; in Quebec (then Lower Canada) the Protestants had also a system of separate—usually called dissentient—schools. In New Brunswick and Nova Scotia public schools systems obtained which in terms made no provision for separate schools, though in the administration of the law the authorities gave public aid to schools that were practically Roman Catholic. The system of separate schools in Ontario had been established as the result of a bitter agitation, and counter agitation, that held the province in a flame of passion for a whole decade. But when the act of 1863, finally conceding a system that gave satisfaction to Roman Catholics, came into operation, it was accepted by the Protestant majority and found to work so well in practice that to-day, after an experience of thirty years, we have the strongest assurance that the Protestant people of Ontario would not change it if they could.

That was the position in Ontario when the representatives of all the provinces met in conference, in 1864, to formulate a scheme of union, and to frame the draft of a constitution for it. All parties were then satisfied with the position of the law in that province respecting schools, and as we will presently see provision was made for perpetuating it.

In Quebec, the situation was somewhat different. While the Protestant minority of that province had their separate schools, the existing law was far from satisfactory to them. But a greater difficulty presented itself to the Protestants of Quebec when the scheme of union was mooted. Education was one of the subjects proposed to be relegated to the jurisdiction of the provincial legislatures. The system of the majority in Lower Canada was a denominational one—a Catholic system pure and simple. If the union was to be created, with the educational laws under the control of the local legislatures, the Protestants of Quebec would be at the mercy of the French Catholic majority, while the official provincial school system would be—not, as in Ontario, a public one, but—wholly Roman Catholic. To the Protestant minority the situation was most alarming, and from every section of the province, containing a Protestant population, a cry arose against consenting to the proposed union, unless satisfactory guarantees were given for the protection of their rights.

It will be apparent from what I have said that there were two phases of the question that affected them. First there was the preservation of the rights they enjoyed under the law then in force. Those rights, it was felt, would not be safe in the hands of the legislature of Quebec. This point was settled without difficulty. The delegates from all the provinces at once agreed to insert a clause in the constitution, limiting the power of the provincial legislatures, so that they could not pass any law prejudicially affecting rights in respect of denominational schools existing at the union. This would protect the Protestant minority of Quebec, and the Catholic minority of Ontario in the privileges they then enjoyed.

Here was indeed a startling departure from the doctrine of provincial autonomy that was to be such a marked characteristic of the union scheme. In local matters generally the legislatures of provinces were to have absolute jurisdiction. But in education, though it was treated as a local matter, the jurisdiction while primarily exclusive, was in fact limited, so that the legislature could pass no law which disregarded the rights of the Protestant

or Roman Catholic minority in any province where denominational schools then existed. Provincial autonomy, in the sense in which it was recognized in regard to other local questions, certainly was not regarded at all in respect to education. There was no difficulty, I say, in settling the question as to the protection of rights then enjoyed. The resolutions adopted by the intercolonial conferences included the restrictive clause I have mentioned, and the parliament of Canada promptly ratified it, notwithstanding that it involved so great a surrender of the theory of provincial autonomy.

The other question, however—one that was of interest to the Protestants of Quebec alone—was destined to be attended with no little difficulty before it reached a solution. The safeguarding of the existing rights of Quebec Protestants was a boon so far as it went, but it by no means met the demands. The privileges they enjoyed in respect of their separate schools under the existing laws were, as I have said, wholly unsatisfactory. Such as they were these privileges had been granted by a parliament in which Protestants were in a large majority; and even from such a parliament they had been for years demanding, and demanding in vain, a better law that would place the Protestant separate schools on a proper footing. But now their educational interests were to be placed under the control of a French Catholic legislature. How were they to secure from such a legislature the larger rights that they had so long demanded in vain, even from a parliament controlled by Protestants? And if once obtained how were those rights to be protected from violation by that legislature in the future? The position, as I have said, was a critical one, and the cry that resounded throughout Quebec found voice in the old Canadian parliament, when the confederation scheme came to be discussed in 1865. The Protestants of Quebec were at that time represented by men of great distinction in public life. Sir John Rose, Sir Alexander Galt, L. H. Holton, Christopher Dunkin and Senator Sanborn were amongst the number. Sir Alex. Galt was a member of the government that introduced the scheme. In 1864 at a public meeting in his province, he had announced that the government would, before the union took place, introduce and pass through the old parliament, an act granting to the Protestants of the province the reforms they demanded. The object in having the law perfected before the union was as Mr. Laurier well expressed it, "before the scheme of confederation came into operation to perfect the laws with regard to separate schools so that the Protestant majority would be beyond the caprice or ill will of the local legislature." Because of the limitation of its powers the legislature would never deprive them of the powers then to be secured.

When parliament met in 1865 the government was called upon to make good the promise. Delay taking place in doing so, feeling waxed hot on the question. Mr. Holton, one of the Liberal leaders of Quebec, speaking of the changes in the system of government, that were contemplated in the union, said that "amongst the Protestant population of Lower Canada there was no feature of the proposed changes which excited so much alarm as this question." The government was repeatedly pressed to introduce the promised legislation and repeatedly gave the assurance that it would. Owing to occurrences that need not be now explained, it was found impossible to do so, and the session closed with the government's undertaking unfulfilled. Another session was to be held, however, before the union would be consumated; and once more the government undertook that the promised amendments would, during the following session, be placed on the statute book. The session of 1866 came and the law was introduced. Because of occurrences again, that I need not detail, the measure had to be withdrawn, and the last opportunity to grant the increased privileges demanded by the Protestant minority, before entering the union, had gone.

The situation had now become so critical that Sir Alex. Galt, having failed to get justice for the Protestants of his province, and to place their rights beyond the power of the provincial legislature to take away, sent in his resignation as a minister. Sir John Macdonald, fearful lest the agitation would block the scheme of union, pleaded with the Protestants of Quebec to trust to the fair mindedness of the French Catholic majority in their own legislature to do them justice. "The minority in each section," said he, "would have to throw themselves on the justice and generosity of the majority." But Sir John's assurances failed to assure. The Quebec Protestants were not satisfied to trust their privileges to the protection of a Catholic legislature. As Mr. Laurier again stated it; "The Pro-

testant minority of Quebec would not be satisfied with that, but continued the agitation, in order to obtain something more substantial than the generosity of their fellow-countrymen in the legislature." Sir Geo. Cartier, the French Conservative chief, came to the rescue with a positive pledge in the name of his party, then in the ascendant in the province, that the legislature of Quebec would itself pass the law that the Protestants demanded. This pledge, so far as it went, was accepted by the Protestants. The solemn pledge of a political leader, given in the name of his party, and accepted in good faith by the people to whom it was made, was in those days considered binding, and it was not doubted that it would be honorably fulfilled.

But, when fulfilled, the Protestants would be no safer than before. The legislature that would pass the law they demanded, could at any time repeal or alter that law, and take away the rights that were now to be conferred. How were the Protestants of Quebec to be protected in the enjoyment of these rights for the future? How could it be made sure that they could never be taken away by the legislature that was to grant them? The difficulty, indeed, seemed as far from solution as ever.

Manifestly there was no way of satisfying the objections of the Protestants of Quebec except by a further limitation of the power of the provincial legislature. But could a further violation of the great doctrine of provincial autonomy be permitted? By limiting the power of a legislature so that it could never pass a law prejudicially affecting separate schools existing at the union, this central doctrine of provincial rights had, as regards education at least, been already disfigured almost beyond recognition. If the power of the legislatures was to be further degraded by limiting their authority to repeal, or even to amend their own laws in respect to education, then indeed that doctrine would be mutilated, so that even the "fathers of confederation" would not know it. All that and nothing short of it must be done, however, in order to satisfy the Protestants of Quebec. Provincial autonomy must never be allowed to stand as against the maintenance of their rights and privileges. And who will aver that the position taken by the minority of Quebec was not a reasonable one?

But how was it to be brought about? Was it really possible, at this stage, to secure the further limitation of provincial powers that the Protestants of Quebec demanded? If anything was to be done it must be done quickly. The delegates of the provinces were even then about to proceed to England to confer with the imperial government to procure its approval of the scheme, and to have an imperial act passed creating the union and defining its constitution, in accordance with the terms of the resolutions. This would indeed be the last opportunity for securing further limitation of provincial powers.

The Quebec minority determined not to lose the opportunity and promptly took action. A petition of the "Association of Protestant Teachers" in the province was forwarded to England, addressed to "Her Most Excellent Maesty," setting forth in strong terms the defects of the then school laws and the grievances that the Protestant minority endured thereunder. The petition set forth that "Her Majesty's subjects professing the Protestant faith" in the province were "subjected to serious disadvantages." Amongst these was "their liability to be taxed for the support of Roman Catholic schools," and "the difficulties they experienced in establishing separate schools for themselves." It stated that the injury complained of "had been the subject of frequent complaint on the part of the Protestant population;" that it "had tended to discourage the settlement of Protestants in the province," that it "had caused many families to leave the country," and yet that "no remedy has hitherto been granted by the legislature" (the old parliament).

The petitioners went on to refer to the proposed union of the provinces, and declared that "under the constitution . . . by which it was proposed that education should be under the control of the local legislatures, the Protestants of Lower Canada became alarmed." They further represented that in order "to allay the feeling thus generally existing, solemn pledges were made by members of the government that the grievances should be redressed before confederation." Solemn pledges were thought to mean something in those days). The petitioners drew Her Majesty's attention to the fact that a measure introduced into parliament to give them redress had been withdrawn, "and unless provisions to this end can be introduced into the Imperial Act of Confederation, your memorialists fear that their educational rights will be left to the control of the majority in the local

legislatures, without any guarantee whatever." They therefore prayed the Queen of England to make "provision for the protection of the educational interests of Protestants," and for "the introduction of proper and just safeguards into the Imperial Act of Confederation."

This petition was forwarded to Britain through the governor-general, with a request to the colonial secretary that it "be laid at the foot of the throne." Promptly a reply came stating that it had been so laid, and would "receive full consideration." A copy of the petition was at the same time sent to Sir Geo. Cartier, the French Catholic chief, accompanied by a letter from the secretary of the Protestant Teachers' association, affirming that the objects sought by them were "regarded as of the most vital importance by the Protestant population of Lower Canada," and craving Sir George's support.

The delegates met in London shortly after this petition was forwarded. Amongst others Sir Alex. Galt, who had left the ministry because he failed to get justice for his co-religionists, was asked to be one of them. Without an assurance, however, that his demands would be met, and the Protestants of Quebec protected for the future, he declined to go. The assurance promptly came. A meeting of the cabinet was held, and it was decided to give Sir Alexander a pledge that the interests of his people would be amply protected. The chief political organ of the Protestants of Quebec triumphantly announced the pledge, and Sir Alexander's acceptance of the position. "We feel," said that organ, "that our Protestant friends may rest assured that the man who resigned the honors and emoluments of office will not be wanting in his trust as their representative, and we hail with great satisfaction the approaching settlement of a question which might have been fraught with so much danger to the cordial relations so happily subsisting between peoples of different races and creeds in Canada."

In London the delegates proceeded to pass on the draft constitution embodied in the resolutions of the Quebec conference. In the clauses dealing with education a remarkable change was now made. It was an amendment introduced by Sir Alex. Galt for the protection of the Protestants of Quebec. I quote the amendment:

"And in any province where a system of separate school by law obtained, or where the local legislature may hereafter adopt a system of separate schools, an appeal shall lie to the governor-general-in-council from the acts of the local authorities which may affect the rights or privileges of the Protestant or the Roman Catholic minority in the matter of education. And the general parliament shall have power in the last resort to legislate on the subject."

Among the interesting mementoes of the discussions of that day that have been published by Mr. Joseph Pope, the biographer of Sir John A. Macdonald, is a facsimilie of the draft of this amendment, in the handwriting of Sir Alexander, with a memorandum, in the handwriting of Sir John Macdonald, that it received the support of all the delegates — Upper and Lower Canada, Nova Scotia and New Brunswick.

This is the clause that was afterwards incorporated in different language, but to the same effect in the Imperial act of union. It is true that the act itself did not go quite as far as the resolutions of the Protestant champion did. Sir Alexander proposed in general terms that the federal parliament should in the last resort have power to legislate on the matter of education. That power was cut down in the imperial act so that parliament could only pass legislation of a remedial character, pursuant to a declaration of the federal executive defining wherein if at all the rights of the minority were in the judgment of such executive affected, and also what measure of redress seemed requisite, and then only after opportunity was given to the legislature itself to remedy the grievance.

And that is how the provision came to be put in the constitution for an appeal to the federal powers. The only class amongst all the peoples that were going into the proposed union that demanded such a provision was the Protestant population of Quebec. It was to procure such a provision that their distinguished champion, after resigning office as a sacrifice to their cause, had gone to England. This same provision is in the Manitoba act, and it is the provision under which the present appeal is being prosecuted. Was this provision of the constitution intended to be an effective one for the protection of minorities in respect to education? It was evidently intended to be effective for the protection of the Protestants of Quebec at least. They did not go to all that trouble to secure a provision for an appeal to the federal powers

against a provincial majority, if the will of the provincial majority must not, after all, be opposed. The particular part of the new constitution that so greatly "alarmed" the Protestants of Quebec was that "by which it was proposed that education should be under the control of the local legislatures." So at least the provincial Association of Protestant Teachers earnestly declared in their memorial to the queen. So said also the representatives of the Protestants in parliament. The alarm created by the proposal to place education under the entire control of the legislature spread over the Protestant communities of the province in a seething agitation, that resulted in the pledge of a political leader, in the name of his party, that the French Catholic legislature of Quebec would concede what the Protestants demanded, and in the placing in the constitution of a clause making it sure that the pledge being fulfilled the larger rights granted by the legislature could "never be taken away." The power of the legislature was cut down so that its action was to be no longer final. It was left for parliament to see that justice was done. The rights of the Protestants of Quebec were committed to parliament for protection against the legislative acts of their own legislatures—against the will of the majority in their own province. Provincial autonomy, we are told in these days, must be respected, and parliament must not intervene in a matter of educational law to thwart the will of a provincial majority. But when the rights of the Protestants of Quebec were at stake the will of the provincial majority was not to prevail against them. Nay, the reason for committing the cause of that minority to the protection of the Federal power was because protection was needed against the privileges of the Protestant minority.

Such was the spirit and letter of the constitution when it was framed for the purpose of protecting the Protestants of Quebec. For the protection of the minority in Manitoba there is the like provision—no more, no less. The federal authorities must not coerce Manitoba, we are told. And the proposition is a good one, in which I heartily concur. In the case of Manitoba it is "coercion"—is it? for the federal authorities to entertain an appeal specially provided for by the constitution for the protection of a section of Her Majesty's subjects. But in the case of Quebec, under a like measure, it is otherwise. The inviolable doctrine of provincial autonomy must never be sacrificed in order to maintain the rights of the Manitoba minority, even by the exercise of a power expressly conferred on parliament for that purpose. But in the case of Quebec that sacred doctrine must be scattered to the four winds of heaven rather than that the minority should have to submit to the will of the provincial majority.

Of course the federal power is not to be exercised in any case unless there are cogent reasons why it should be invoked. Upon the Dominion executive the constitution cast the responsibility of inquiring into and considering complaints under this clause, and of determining not only whether an appeal is allowable, but also whether under the particular facts "any relief is due" to the complainants. This involves an inquiry into questions of fact as well as questions of law. Parliament years ago, in its wisdom, on the proposal of Mr. Blake, determined that for such inquiry and consideration it was important to call in the aid of the judicial department of the government. Parliament desired that no injustice be done to a majority, but it proposed at the same time that there should be no failure to do full justice to a complaining minority. To determine whether relief is really due and ought to be given to the complainants it was held that the whole matter—facts as well as law—should be inquired into and discussed, before a judicial tribunal, in the presence of the parties interested, and that the reasoned opinion of the tribunal, after full argument on all sides, should be submitted to the executive, in order to aid them in determining not simply whether there was a right of appeal, but whether any relief was properly due.

In the Manitoba case this reference has been made. The opinion of the judges has been given. Not only is there a right of appeal, but the facts show that the minority have been aggrieved by the law of 1890 in that they have been deprived of valuable privileges that they enjoyed by law for nearly twenty years — privileges in the enjoyment of which the constitution was intended to protect them.

But parliament in directing this inquiry by the courts distinctly declared that the opinion was to be only "advisory." It was to be an assistance to the federal government and parliament in coming to a conclusion for themselves. The government, however, is not bound by it.

Parliament, as well as the government, must on its own responsibility and on grounds that can be justified to the public, decide whether any relief and what relief if any, is to be given. But is not the government, and is not parliament, to have any regard to the opinion of the court? Surely they are. It is one thing to say that parliament is not "bound" by the opinion of the court. It is quite a different thing to say that there is no moral obligation to give relief, in a case in which the court has found that there is a grievance, and that the constitutional act is a "parliamentary compact" by which the crown was pledged to protect the minority against such a grievance. When the Imperial parliament on the petition of the Protestants of Quebec to Her Majesty put the provisions in the constitution for their protection, it was not intended as a mere form of words. It was intended to be a real protection to them. And it must be equally efficacious to protect a Catholic minority. Of what use is the appeal clause in the constitution if the applicants who invoke its protection are to be met with the answer that federal interference with the will of the provincial majority is inconsistent with provincial autonomy, and that relief must therefore be denied? The will of the majority was the very thing that was feared, as liable to do injustice. The Protestants of Quebec were unwilling to trust themselves to the generosity of the majority, and hence the federal protection was extended to them against that majority. Of what use, I repeat, is the protection if it is not to be invoked—if the will of the majority must still prevail as an inviolable right that must not be opposed?

Clearly Sir Alexander's amendment was meant to be a real protection against a real grievance. The powers conferred on the federal government and parliament were useless unless they were to be acted upon. The Queen and her parliament did not mean to put the Quebec memorialists off with an empty form of words, giving them an appearance of a right of appeal while the reality was wanting. A clause granting in words a right of appeal, and giving parliament power to redress, can be of no value unless the minority, when aggrieved, may invoke these powers, and unless the appellate body can exercise them. Good words and kind wishes are very nice, but in themselves they will not support life. The Protestants of Quebec asked the Queen for bread—she did not give them a stone. If you say to a destitute brother or sister, "Be ye warmed and filled; notwithstanding if ye give them not those things which are needful to the body, what doth it profit?" So it was written long since for our edification. The lesson is as valuable today as it was eighteen hundred years ago.

Are we to apply one rule to the case of the Protestants in Quebec and a different and contrary rule to the Catholics of Manitoba? The constitutional provision is the same in both cases. Is there a reason for insisting that in the one case the provision shall be effective, and in the other non-effective—a dead letter?

I have indicated that there is a material difference in the character of the schools of the majority in the two provinces. The schools of the majority in Quebec are avowedly Roman Catholic schools. Those of the majority in Manitoba profess to be entirely undenominational—absolutely non-sectarian. Is this a circumstance that affects the rights in either case, or that should weigh with the federal authorities in deciding whether or not relief is under all the circumstances due to the Catholics of this province? I shall follow ont this enquiry in another letter.

JAMES FISHER.

To the Editor of the Free Press.

Sir,—In my letter I think I made it clear that the provision for an appeal to parliament against provincial educational laws was placed in the constitution so that it might be an effective guarantee to the Protestants of Quebec that privileges once granted to them by the provincial legislature in respect to their separate schools would be protected against future attacks by the legislature. I showed that exactly the same provisions were embodied in the Manitoba constitution for the protection of the minority in this province whether it might be Protestant or Catholic. It is clear as I have shown, that this provision was to be effective for the protection of Protestants. I now come to the consideration of the question whether there is anything in the conditions affecting the Manitoba minority which would justify the application of a different rule Is it right under existing circumstances that the protection of parliament should be extended to the one minority and refused in the case of the other? At the first blush the mere statement of the question would appear to furnish its own answer.

When we consider the fact that the amendment prepared by Sir A. Galt, and unanimously concurred in by his co-delegates made no distinction between Protestant and Catholic minorities, but extended the protection of the constitution to the minorities of both classes in precisely the same terms it is difficult on the first statement of the question, to conceive how a remedy that ought in justice to be extended to one class can with justice be withheld from the other.

Further consideration of the question, however, shows that it is not so easy after all of solution. There is no doubt that many of the most earnest and most aggressive opponents of federal intervention in favor of the Roman Catholics of Manitoba would justify—aye would demand prompt intervention on behalf of the Protestants of Quebec under like circumstances. I desire to be distinctly understood that I am not here referring to the protection of the Protestants of Quebec in the rights they enjoyed at the union. I am referring to the case, that is quite possible of the Quebec legislatnre passing a law taking away rights granted by that legislature itself since the union. I repeat that the most prominent opponents of federal intervention in the present issue would be the first to demand intervention under exactly the like circumstances for the protection of the Protestants of Quebec. And for their justification in taking these two apparently irreconcilable positions they give reasons which are not only satisfactory to themselves but are exceedingly plausible.

I have already hinted at the distinction they draw between the case of the one minority and that of the other. The system of the majority in Manitoba, as stated by the law that creates it, is a purely non-denominational one, and for the purpose of this discussion I will concede that it is so. The system of the majority in Quebec on the contrary is avowedly one of Roman Catholic schools. To compel the Roman Catholics of Manitoba to submit to a system that is in no sense denominational, is one thing. To force upon the Protestant minority of Quebec a purely Roman Catholic system to compel them to educate their children in and to pay their taxes to schools that are under the control of a Roman Catholic body is altogether another thing. So argue the opponents of intervention in Manitoba, who would justify remedial legislation in the province of Quebec. To them it seems plain that the abolition of separate schools in Manitoba, where the minority can send their children to an undenominational school with the protection of a conscience clause cannot be regarded as a grievance comparable with the wrong inflicted on the Protestants of Quebec, if forced to submit to a system that would be practically under Catholic contrli. Looking at the question from a Protestant standpoint it seems impossible to deny that there is real distinction between the two cases in the extent at all events of the grievance. For myself I quite concede the distinction.

Does it follow, however that the constitution which was created for the protection of the Catholics equally with Protestants, shall be made effective for the protection of the latter while it shall be a dead letter in safeguarding the rights of the former? To me it seems that the conditions affecting the Protestants of Quebec rendering their dependence npon the French Catholic legislature of the province so peculiarly irksome and alarming as to demand protection by the federal powers, are in themselves the very circumstances that demand the most faithful extension to Roman Catholics of the same protection.

What were the circumstances under which the Protestants of Quebec secured the insertion of the provision for appeal in the constitution? In the old parliament of Canada, though they were a provincial minority they had a Protestant majority to secure them against greivous wrongs. Even from that parliament they could not obtain full justice. Now their educational interests were to be in the hands of a legislature controlled by French Catholics. Even in the past their failure to secure proper provisions for their separate schools "had tended to discourage the settlement of Protestants in the province," and had actually "caused many families to leave the country." Besides that they were "liable to be taxed for the support of Roman Catholic schools; and they had difficulties in "establishing separate schools for themselves." Failing to get redress from the Protestant parliament of Canada they had accepted the promise of Sir George Cartier that the legislature of Quebec would concede all their demands after the union. They willingly put faith in the pledge of the French leader, but they were not willing to trust to the generosity of the French legislature in the future. And so they demanded and received the protection of the federal powers. To the Protes-

tants of Quebec, this was a crucial point. The protection they required was obtained through what the judges of the privy council call a "Parliamentary Compact;" that is to say, they secured that protection for themselves by conceding a like protection to Roman Catholics. It may be true, and in your judgment and mine, Mr. Editor, it certainly is true, that the securing of this protection was more essential for Protestants than for Roman Catholics. But the very fact that it was so essential for the Protestants of one province, was the moving cause for their persistency in securing it, and for their making the like concessions to Roman Catholics in order to secure it. They secured for themselves the protection of privileges that were most essential by conceding to Roman Catholics the like protection in privileges that were by some at least deemed less essential. Are we as Protestants to say that the rights so essential to us shall be protected to the full extent that the constitution provides and that such protection shall be denied in respect of the rights less essential as we may deem them; that were secured for the Roman Catholic minorities? It was a bargain between Protestants and Catholics at the time of the union. We think that it was far more essential to us that the bargain should be made than for them. Is it to be held sacred only for our protection? By what code of political ethics can we refuse the Roman Catholics the same protection that we demand for ourselves under the circumstances stated?

So much as to our duty under the law as it appeared in the statute books. It is interesting to go beyond this and to look at the intentions of the framers of the constitution in providing the right of appeal. I will show clearly that it was intended from the beginning to make the position of Catholics and Protestants identical. I have said that Sir Alex Galt, the Protestant champion of the day, had been a member of the cabinet which introduced the union scheme. I quoted from a speech of his in 1864. I quote again from the same address: "It was clear that in confiding the general subject of education to the local legislatures, it was necessary it should be accompanied with such restrictions as would prevent injustice in any respect from being done to the minority."

I call particular attention to the following words uttered in the same address: "Now this applied to Lower Canada, but it also applied and with equal force to Upper Canada and the other provinces. For in Lower Canada as there was a Protestant minority and in the other provinces there was a Roman Catholic minority. The same privileges belong to the one of right here as belonged to the other of right elsewhere."

These, be it remembered, are the words of the Protestant champion, spoken officially as a member of the government, speaking alike for the government and for the Protestants of Quebec as well as of the whole of Canada, he declared that the same privileges that belonged of right to Protestants of Quebec belonged equally of right to Roman Catholics where they were in a minority in other provinces. Mr. Laurier speaking upon this point in the Commons said: "Mr. Galt was one of the most remarkable and broad minded men of his generation. Mr. Galt was too great a man to introduce that provision into the law simply for the security of his own people, the Protestant minority of Quebec without at the same time securing like privileges to all the other minorities of the other provinces." Absolutely true, Mr. Laurier, and magnificently spoken. Let it not be forgotten that Mr. Laurier said this in the discussion of the Manitoba school question. He proceeded in the same address: "The intention of the delegation to London was that these guarantees devised by Mr. Galt, it is true, for the Protestant minority of Quebec should be extended to all minorities as well. * * The law has to be construed in a generous and liberal spirit, and whatever privileges are guaranteed to one minority in a province, I claim in the name of justice and fairness for all minorities in all of the provinces. * * Manifestly the intention was that whenever a law relating to education was passed in a province which had enjoyed separate schools, which law the minority deem oppressive, that minority should have the right to come before the Dominion government—nay, before the Dominion parliament, and claim justice—claim to be protected from that oppression." So Mr. Laurier argued, and made it clear that the protection meant to be extended to the Protestants of Quebec, must equally be extended to the Roman Catholics of Manitoba. He went on to refer to the larger rights respecting their separate schools given to the Protestants by the Quebec legislature. He suggested the possibility of that legislature some day in the future passing a

law taking away some of the rights so granted. "If such legislation," said Mr. Laurier, "were to be enacted by the legislature of Quebec, is there a man to say that it would not be an infamous act of tyranny." Speaking of the possibility of an appeal by the Protestant minority to parliament, he said: "If under the circumstances an appeal were brought to this government is there a man in the house who would not say at once to the government, it is your bounden duty at once to interfere and make away with this obnoxious and tyrannical legislation."

It is true that Mr. Laurier referred to the contention raised in some quarters that the public schools of Manitoba are really Protestant schools. He said that if this were true it intensified the wrong, and he called upon the government to inquire into the fact. I have shown however that the question whether the schools of Manitoba were Protestant or not was not the real issue. The privileges that the Protestant and Catholic minorities respectively were entitled of right to preserve, as Sir Alex. Galt put it, were the privileges necessary for maintaining their own separate schools. And while it is true that in the Barrett case the English judges said that the schools created by the Manitoba law were not Protestant, the same judges, in the appeal case, held that by the act of 1890 the Catholics of Manitoba are not only deprived of their own schools, but are compelled to maintain schools "which they regard as no more suitable for the education of Catholic children than if they were distinctly Protestant in their character." This is to say, whether the public schools of Manitoba can properly be called Protestant or not Roman Catholics at all events regard them quite as unsuitable for the education of their children as if they were distinctly Protestant. It was because of this fact that the judges came to the conclusion that, "It does not seem possible to say that the rights and privileges of the Roman Catholic minority which existed prior to 1890 have not been affected."

Apart from the fact that the provision for appeal to Ottawa was put in the constitution at the instance, and for the protection, of the Protestants of Quebec, there is another most interesting fact which should not be lost sight of. The Protestant minority of Quebec were the first to avail themselves of that provision and to appeal to federal powers against provincial legislation. About 1888 an act was passed by the legislature of Quebec against which the Protestant minority protested, because, as they contended, it affected rights which they enjoyed under the laws passed by the province since the union. A petition appealing to Ottawa was sent in signed by about 1,500 Protestants of the province, and it was supported strongly by the Protestants of Ontario. The position then taken by the supporters of the petition, in both provinces, was that the right of appeal to Ottawa for remedial legislation must be upheld at all hazards. The Rev. Principal Caven, of Toronto, now so prominent in condemning federal interference in Manitoba, circulated an address over his own signature containing the following language:

"The right of appeal to the governor-general which minorities at present have must remain. Nay the entire Dominion is the proper guarantee for equality of dealing on the part of provinces with the adherents of the various churches."

Even Mr. Dalton McCarthy at that time used this language in the House of Commons: "The duty and power —because where there is a power there is a corresponding duty—are cast upon the Governor-in-Council to revise and review the acts of the legislative bodies."

Mr. Sifton once stated in the local legislature that the government at Ottawa had refused to entertain this appeal of the Quebec minority, and he contrasted that action with the conduct of the same government in entertaining the Manitoba appeal. Mr. Sifton was under a strange misapprehension as to the facts. The truth is that the government of Sir John Macdonald received and dealt with the Quebec appeal just as it did with the appeal from Manitoba. A day was appointed for the appeal being heard, and notice thereof was transmitted to the Quebec government and to the council for the Quebec minority. That was exactly the course taken in the case of Manitoba. The attention of the Quebec government was drawn to the complaints of the minority. I do not now recall the exact terms in which this was done, but I understand the hope was expressed that the Quebec legislature would itself enquire into the alleged grievance and furnish a remedy for any wrongs. That was exactly the course taken in the case of Manitoba. Here, however, the parallel between the two cases ends. The reply of the Manitoba government was that the

complaints had been fully considered for several years, that there was no grievance, and that there would be no redress. The reply of the Quebec government was that they would themselves furnish a remedy. Upon receiving notice of this, the counsel for the Protestant minority asked that the time fixed for hearing the appeal should be postponed. In the meantime the Quebec government conceded to the Protestant minority what the latter asked. The difficulty was settled and the appeal, of course, was never heard. Thus the Protestants of Quebec made the first appeal to Ottawa under the appeal clause in the constitution, and thereby they obtained from Quebec the measure of relief they demanded.

Upon the whole case I submit, Mr. Editor, that Protestants cannot justly contend that the provision for appeal to Ottawa, so essential to the minority of Quebec, shall be a dead letter when invoked by the minority in another province. To me the conclusion is irresistible that we cannot allow the right of appeal to be less effective for Roman Catholics than for our own co-religionists in Quebec. The framers of confederation clearly intended that the federal powers should extend protection alike to both; the constitution itself made it so, and we of the Protestant faith cannot in justice claim for ourselves an advantage that we deny to the other party to the compact.

Looking at the means taken by parliament, on Mr. Blake's suggestion in 1890, to have all the questions of fact and of law that were involved in the controversy fully considered before an independent tribunal, in order to assist the government and parliament in determining, not only whether there was a right of appeal in this particular case, but whether upon all the facts any relief is due to the minority: looking at the most thorough investigation into all the facts made in the Barrett and Logan cases; looking at the full and careful enquiry into the whole question by that tribunal in those cases and in the appeal case; and looking at the judgment of the privy council upon the appeal, I do not see how it is possible for the federal government to ignore the grievance. Nor do I see how it will be possible for parliament to refuse redress if in the end this province itself will not settle the question.

And yet I would deplore any necessity for federal intervention. Admitting the power of parliament to interveno; admitting indeed that under possible circumstances the duty may be cast upon it of intervening, it will be a most unfortunate thing for Manitoba if parliament shall have to pass laws affecting our school system. The true place to get the matter settled is in our own legislature.

We are on the eve of a general election in the province. The provincial ministers make their appeal to the electors as the champions of provincial rights, and as opposed to federal intervention; they make their appeal also as the upholders of the present system and as opposed to making any concessions. No one, I suppose, doubts—I certainly do not—that they will be returned to power with a very large majority of their backs. The new legislature is to meet within a month. At that time it is scarcely to be expected that any remedial legislation will have been finally passed at Ottawa. I venture still to hope that one of the first acts of the local administration, in the new house, will be to bring down a measure making reasonable concessions to the minority—concessions which may be found acceptable as affording reasonable redress, while leaving the present law to its general operation.

I sincerely trust it may be so. If I mistake not, the signs of the times point to the probability that a new lease of power being thus secured, some such measure will ere long be brought down by ministers to the new legislature; should such expectations be realized the future only can tell whether the measure to be brought down will furnish a final solution for this vexed and difficult problem now confronting, not Manitoba alone, but the Dominion at large. For myself I cling to the hope that the question is shortly to be settled so that the federal parliament will never be called upon to put the proposed remedial legislation on the statute book.

JAMES FISHER.